



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 7, 2020

Ms. Laura Garza Jimenez
County Attorney
County of Nueces
901 Leopard Street, Room 207
Corpus Christi, Texas 78401-3680

OR2020-10386

Dear Ms. Jimenez:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 820380.

The Nueces County Judge's Office (the "county") received a request for information pertaining to access card use by a named county judge to enter and exit a specified county building during a stated period of time. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.136, and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(b)(1) of the Government Code excepts from disclosure "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution . . . if . . . release of the internal record or notation would interfere with law enforcement or prosecution[.]" Gov't Code § 552.108(b)(1). This section is intended to protect "information which, if released, would permit private citizens to anticipate weaknesses in a police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate the laws of this State." *City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.). Rather than merely making a conclusory assertion that releasing the information would interfere with law enforcement, the governmental body claiming section 552.108(b)(1) must meet its burden of explaining how and why release of the requested information would interfere with law enforcement and crime prevention. *See* Open Records Decision No. 562 at 10 (1990) (construing statutory predecessor). This office has concluded section 552.108(b)(1) excepts from public disclosure information relating to the security or operation of a law enforcement agency. *See, e.g.*, Open Record Decision Nos.

252 (1980) (section 552.108 designed to protect investigative techniques and procedures used in law enforcement), 143 (1976) (disclosure of specific operations or specialized equipment). However, section 552.108(b)(1) is not applicable to generally known policies and procedures. *See, e.g.*, Open Records Decision Nos. 531 at 2-3 (1989) (Penal Code provisions, common law rules, and constitutional limitations on use of force not protected), 252 at 3 (governmental body failed to indicate why investigative procedures and techniques requested were any different from those commonly known).

You assert the submitted information is excepted from disclosure under section 552.108(b)(1) of the Government Code. You state the submitted information consists of the named county judge's access card data, which shows the date, time, and location for each time the named individual entered and exited the county courthouse. You explain the secured garage is an entrance reserved for elected officials and the Nueces County Sheriff's Office uses the information at issue to maintain courthouse security. You assert release of the information at issue would provide "knowledge of an elected official's pattern of entering and exiting the secured garage[,]" and thus "could be used to gain unauthorized access to the secure garage or subject an elected official to an attack[,] . . . as well as potentially escape detection." Based on your representations and our review, we find you have demonstrated release of the information at issue would interfere with law enforcement. Accordingly, the county may withhold the submitted information under section 552.108(b)(1) of the Government Code.¹

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Blake Brennan
Assistant Attorney General
Open Records Division

BBX/rm

¹ As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

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Enc. Submitted documents

c: Requestor
(w/o enclosures)