



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

April 7, 2020

Mr. Nicholas Morrell  
Assistant General Counsel  
Office of the General Counsel  
Texas Department of Criminal Justice  
P.O. Box 4004  
Huntsville, Texas 77342-4004

OR2020-10445

Dear Mr. Morrell:

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# 820539 (OGC No. PP0193).

The Texas Department of Criminal Justice (the "department") received a request for a copy of the department's Emergency Action Center (the "EAC") Notification Handbook for 2017. You claim portions of the submitted information are excepted from disclosure under sections 552.108 and 552.139 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(b)(1) excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors when their release would interfere with law enforcement and crime prevention. Gov't Code § 552.108(b)(1); *see also* Open Records Decision No. 531 at 2 (1989). Section 552.108(b)(1) 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." *See City of Ft. Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.). To demonstrate the applicability of this exception, a governmental body must meet its burden of explaining how and why release of the requested information would interfere with law enforcement and crime prevention. Open Records Decision No. 562 at 10 (1990). 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 Records Decision Nos. 531 (release of detailed use of force guidelines would unduly interfere with law enforcement), 252 (1980) (section 552.108 is designed to protect investigative techniques and procedures used in law

enforcement), 143 (1976) (disclosure of specific operations or specialized equipment directly related to investigation or detection of crime may be excepted). Section 552.108(b)(1) is not applicable, however, to generally known policies and procedures. *See, e.g.*, Open Records Decision Nos. 531 at 2-3 (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).

The department asserts release of the information at issue “would help offenders identify patterns that could be used to manipulate the EAC reporting process.” You explain that an offender with knowledge of the information at issue can “manipulate correctional staff into positions advantageous to the offender and harmful to correctional officers” and could “manipulate security operations.” Based on your representations and our review, we find the release of the information we marked would interfere with law enforcement. Therefore, the department may withhold the information we marked under section 552.108(b)(1) of the Government Code. However, we find you have failed to demonstrate release of the remaining information at issue would interfere with law enforcement. Thus, no portion of the remaining information may be withheld under section 552.108(b)(1) of the Government Code.

Section 552.139 of the Government Code provides, in part:

(a) Information is excepted from [required public disclosure] if it is information that relates to computer network security, to restricted information under Section 2059.055 [of the Government Code], or to the design, operation, or defense of a computer network.

Gov’t Code § 552.139(a). Section 2059.055 of the Government Code provides in pertinent part:

(b) Network security information is confidential under this section if the information is:

(1) related to passwords, personal identification numbers, access codes, encryption, or other components of the security system of a state agency[.]

*Id.* § 2059.055(b). Upon review, we find you failed to demonstrate any of the remaining information at issue relates to computer network security, to restricted information under 2059.055, or to the design, operation, or defense of a computer network as contemplated by section 552.139(a). Accordingly, the department may not withhold any of the remaining information under section 552.139(a) of the Government Code.

In summary, the department may withhold the information we marked under section 552.108(b)(1) of the Government Code. The department must release the remaining information.

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,

Britni Ramirez  
Assistant Attorney General  
Open Records Division

BR/gw

Ref: ID# 820539

Enc. Submitted documents

c: Requestor  
(w/o enclosures)