



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 10, 2020

Ms. ML Calcote
Assistant General Counsel
Texas Department of Public Safety
PO Box 4087
Austin, Texas 78773-0001

OR2020-22901

Dear Ms. Calcote:

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# 843218 (PIR 20-2074).

The Texas Department of Public Safety (the "department") received a request for four categories of information pertaining to specified aircraft, including all video recordings taken from the aircraft during a specified time period. We understand the department has released some of the requested information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 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 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) (quoting *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977)). A governmental body claiming section 552.108(b)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706. 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 Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.). 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 of the Government Code 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.*, ORDs 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).

You state the submitted information, if released, would interfere with law enforcement or prosecution of crime. We note the request, in part, seeks a compilation of all video recordings taken from the aircraft during a specified time period. You argue release of the information at issue would “reveal certain protocols used by pilots . . . relat[ing] to tactical plans used by the [d]epartment in preventing, detecting, responding to, and investigating acts of terrorism and related criminal activity.” Further, you argue release of the information at issue would interfere with law enforcement by “provid[ing] wrong-doers, terrorists, and criminals with invaluable information concerning staffing and law enforcement intelligence techniques that are used to locate information which is passed to investigators and law enforcement personnel on the ground” when responding to public safety threats. Based on these representations and our review, we agree the release of the submitted information would interfere with law enforcement. Accordingly, the department 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,

Alexandra C. Burks
Attorney
Open Records Division

ACB/be

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

Ms. ML Calcote - Page 3

Ref: ID# 843218

Enc. Submitted documents

c: Requestor
(w/o enclosures)