



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

November 18, 2020

Mr. Adam Anderson  
Assistant County Attorney  
Montgomery County  
501 North Thompson, Suite #300  
Conroe, Texas 77301

OR2020-28876

Dear Mr. Anderson:

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# 854337 (ORR# 20PIA299).

The Montgomery County Constable Precinct 3's Office (the "constable's office") received a request for all policies and procedures of the constable's office. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the claimed exception 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. *See* 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)). 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.). To prevail on its claim that subsection 552.108(b)(1) excepts information from disclosure, a governmental body must do more than merely make a conclusory assertion that releasing the information would interfere with law enforcement. Instead, the governmental body 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 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 inform us the submitted information consists of the standard operation procedures manual of the constable's office. You state the information at issue "relates to information which reveals law enforcement methods, techniques, and strategies as well as expectations of deputies operating vehicles of the [constable's office] during vehicle pursuits." You assert release of this information "would allow an individual to anticipate police strategy and thwart police efforts which would negatively affect the [constable's office's] ability to investigate, interdict, and prosecute crimes, as well as endanger the safety of the deputies." Based upon your representations and our review, we agree the release of some of the submitted information, which we marked, would interfere with law enforcement. Accordingly, the constable's office may withhold the information we marked under section 552.108(b)(1) of the Government Code. However, we find you have failed to demonstrate the release of any of the remaining information at issue would interfere with law enforcement or crime prevention. Therefore, the constable's office may not withhold any of the remaining information at issue under section 552.108(b)(1). The constable's office 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,

James M. Graham  
Assistant Attorney General  
Open Records Division

JMG/jm

Ref: ID# 854337

Enc. Submitted documents

c: Requestor  
(w/o enclosures)