



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 11, 2022

Ms. Robin Hill O'Donoghue
Counsel for Gregg County
Flowers & Davis, P.L.L.C.
1021 East Southeast Loop 323, Suite 200
Tyler, Texas 75701

OR2022-00982

Dear Ms. O'Donoghue:

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# 924597.

The Gregg County Sheriff's Office (the "sheriff's office"), which you represent, received a request for communications and reports pertaining to a specified event. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. Additionally, you state release of the submitted information may implicate the interests of the City of Longview, Federal Bureau of Investigation of the United States Department of Justice (the "FBI"), and the Texas Department of Public Safety (the "DPS"). Accordingly, you state, and provide documentation showing, the system notified these interested third parties of the request for information and of their right to submit arguments to this office.¹ See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments from the FBI and the DPS. We have considered the submitted arguments and reviewed the submitted information.

Initially, the FBI asserts the sheriff's office is not the proper custodian of some of the submitted information. The FBI argues it is the proper custodian of the information at issue. We note, however, that section 552.002(a) of the Government Code defines "public information" as information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body;

¹ As of the date of this letter, we have not received comments from the City of Longview.

(2) for a governmental body and the governmental body:

(A) owns the information;

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

Id. § 552.002(a). In this instance, the sheriff's office maintains the information at issue in connection with the transaction of its official business. Thus, the sheriff's office is a proper custodian for the information at issue. Consequently, we conclude the information at issue is subject to the Act, and we will consider the arguments against its disclosure.

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. *Id.* § 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 at 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).

The sheriff's office, the DPS, and the FBI state the information at issue consists of internal law enforcement records that, if released, would interfere with law enforcement or prosecution of crime. The sheriff's office, the DPS, and the FBI assert release of the information at issue would reveal knowledge of threats, intelligence-gathering and planning

techniques, and strategies for utilized by law enforcement to prevent and detect crime. The sheriff's office, the DPS, and the FBI also assert release of the information at issue would cause significant harm to law enforcement efforts and jeopardize the safety of law enforcement officers. Based on these representations and our review, we agree release of the submitted information would interfere with law enforcement. Accordingly, the sheriff's office may withhold the submitted information under section 552.108(b)(1) of the Government Code.²

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/ba

Ref: ID# 924597

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: 3 Third Parties
(w/o enclosures)

² As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.