



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 11, 2022

Mr. Robert Spangler
Counsel for Jim Wells County
Royston, Rayzor, Vickery & Williams, L.L.P.
802 North Carancahua Street, Suite 1300
Corpus Christi, Texas 78401

OR2022-19899

Dear Mr. Spangler:

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# 957922 (County File No. 46,769).

Jim Wells County (the "county"), which you represent, received a request for a list of county sheriff's office employees and the compensation and county-issued cellular telephone numbers related to those employees. You claim portions of the submitted information are excepted from disclosure under sections 552.108 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 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).

In Open Records Decision No. 506 (1988), this office determined the statutory predecessor to section 552.108(b) excepted from disclosure “cellular mobile phone numbers assigned to county officials and employees with specific law enforcement responsibilities.” ORD 506 at 2. We noted the purpose of the cellular telephones was to ensure immediate access to individuals with specific law enforcement responsibilities and public access to these numbers could interfere with that purpose. *Id.* You inform us the cellular telephones at issue “are issued to uniformed law enforcement officers to assist in their law enforcement duties and ensure available lines of communication[.]” You assert release of the information would interfere with law enforcement. Based on these representations and our review, we conclude the county may withhold the information we have marked under section 552.108(b)(1) of the Government Code. However, we find you have not demonstrated release of any of the remaining information at issue would interfere with law enforcement or crime prevention. Accordingly, the county may not withhold any of the remaining information at issue under section 552.108(b)(1) of the Government Code.

Section 552.152 of the Government Code provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from [required public disclosure] if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov’t Code § 552.152. You inform us some of the remaining information relates to an undercover peace officer. You assert release of this information would subject the officer to a substantial threat of physical harm. Based upon these representations and our review, we conclude you have demonstrated release of some of the information at issue would subject the officer to a substantial threat of physical harm. Therefore, the county must withhold the information we have marked under section 552.152 of the Government Code. However, we find you have failed to demonstrate the release of the remaining information you have marked would subject an employee or officer to a substantial risk of physical harm. Accordingly, the county may not withhold any of the remaining information at issue under section 552.152 of the Government Code.

In summary, the county: (1) may withhold the information we have marked under section 552.108(b)(1) of the Government Code; (2) must withhold the information we have marked under section 552.152 of the Government Code; and (3) 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,

Tim Neal
Assistant Attorney General
Open Records Division

TN/mo

Ref: ID# 957922

Enc. Submitted documents

c: Requestor
(w/o enclosures)