



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 19, 2022

Ms. Lisa Foster
Assistant Records Supervisor
McLennan County Sheriff's Office
901 Washington Avenue
Waco, Texas 76701

OR2022-32190

Dear Ms. Foster:

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# 978771.

The McLennan County Sheriff's Office (the "sheriff's office") received a request for four categories of information pertaining to a named employee, interoffice communications pertaining to a specified incident, and certain policies. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the sheriff's office has submitted only the sheriff's office policies. To the extent any additional information responsive to the request existed on the date the sheriff's office received the present request, we assume the sheriff's office has already released it. If the sheriff's office has not released any such information, it must do so at this time. *See id.* §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Section 552.108(b) of the Government Code excepts from disclosure "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution ... if (1) release of the internal record or notation would interfere with law enforcement or prosecution[.]" Gov't Code §

552.108(b)(1). This section 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.” *City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.). This office has concluded this provision protects certain kinds of information, the disclosure of which might compromise the security or operations of a law enforcement agency. *See e.g.*, Open Records Decision Nos. 531 at 3-4 (1989) (detailed guidelines regarding police department’s use of force policy), 508 at 3-4 (1988) information relating to future transfers of prisoners), 413 (1984) (sketch showing security measures for forthcoming execution). However, to claim this aspect of section 552.108 protection a governmental body must meet its burden of explaining how and why release of the information at issue would interfere with law enforcement and crime prevention. Open Records Decision No. 562 at 10 (1990). Further, commonly known policies and techniques may not be withheld under section 552.108. *See e.g.*, Open Records Nos. 531 at 2-3 (former section 552.108 does not protect Penal Code provisions, common-law rules, and constitutional limitations of force), 252 at 3 (1980) (governmental body did not meet burden because it did not indicate why investigative procedures and techniques submitted were any different from those commonly known with law enforcement and crime prevention). To prevail on its claim that section 552.108(b)(1) exempts information from disclosure, a law-enforcement agency must do more than merely make a conclusory assertion that releasing the information would interfere with law enforcement. The determination of whether the release of particular records would interfere with law enforcement is made on a case-by-case basis. Open Records Decision No. 409 at 2 (1982). You state that release of the submitted information would interfere with law enforcement. You state disclosure of the information would “give an advantage to criminal suspects attempting to evade arrest by informing them of matters such as when pursuits can be initiated, how pursuits should be conducted, when pursuits should be conducted, when pursuits should be terminated, and driving tactics.” You further state that disclosure could “provide a blueprint for a suspect to follow in order to force officers to disengage.” Based on these representations, and our review, we find the release of some of the submitted information would interfere with law enforcement. Therefore, the sheriff’s office may withhold the information we marked under section 552.108(b)(1) of the Government Code. However, we conclude the sheriff’s office has not established the release of the remaining information would interfere with law enforcement. Therefore, the sheriff’s office may not withhold any of the remaining information under section 552.108(b)(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,

Justin H. Miller
Attorney
Open Records Division

JHM/eb

Ref: ID# 978771

Enc. Submitted documents

c: Requestor
(w/o enclosures)