



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 21, 2009

Ms. Mary E. Reveles
First Assistant County Attorney
Fort Bend County
301 Jackson Street, Suite 728
Richmond, Texas 77469

OR2009-06937

Dear Ms. Reveles:

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# 343913.

The Fort Bend County Sheriff's Office (the "sheriff") received a request for all information pertaining to "intake, handling, processing, and follow-up of 9-1-1 calls received by 9-1-1 operators and staff." You claim that 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.

You claim that the submitted standard operating procedures for the emergency communications center are excepted from disclosure under sections 552.108(a)(1) and 552.108(b)(1) of the Government Code. These sections provide:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

...

(b) An 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 is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

Gov't Code § 552.108(a)(1), (b)(1). A governmental body claiming section 552.108(a)(1) or section 552.108(b)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Subsection 552.108(a)(1) protects information, the release of which would interfere with a particular criminal investigation or prosecution. You do not explain, and we cannot discern from the document itself, how these standard operating procedures relate to any particular ongoing criminal investigation or prosecution. Consequently, we find that you have failed to demonstrate the applicability of section 552.108(a)(1) to the submitted information. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Accordingly, the sheriff may not withhold the submitted information under section 552.108(a)(1) of the Government Code.

Section 552.108(b)(1) encompasses internal law enforcement and prosecution records, the release of which would interfere with on-going law enforcement and prosecution efforts in general. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.) (section 552.108(b)(1) protects information that, if released, would permit private citizens to anticipate weaknesses in police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate state laws). This office has stated that under the statutory predecessor to section 552.108(b), a governmental body may withhold information that would reveal law enforcement techniques or procedures. *See, e.g.*, Open Records Decision Nos. 531 (1989) (release of detailed use of force guidelines would unduly interfere with law enforcement), 456 (1987) (release of forms containing information regarding location of off-duty police officers in advance would unduly interfere with law enforcement), 413 (1984) (release of sketch showing security measures to be used at next execution would unduly interfere with law enforcement), 409 (1984) (if information regarding certain burglaries exhibit a pattern that reveals investigative techniques, information is excepted under predecessor to section 552.108), 341 (1982) (release of certain information from Department of Public Safety would unduly interfere with law enforcement because release would hamper departmental efforts to detect forgeries of drivers' licenses), 252 (1980) (predecessor to section 552.108 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). Generally known policies and techniques may not be withheld under section 552.108. *See, e.g.*, ORD 531 at 2-3 (Penal Code provisions, common law rules, and constitutional limitations on use of force are not protected under predecessor to

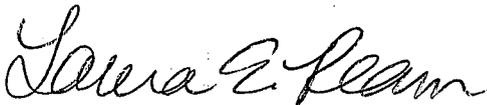
section 552.108), 252 at 3 (governmental body did not meet burden because it did not indicate why investigative procedures and techniques requested were any different from those commonly known).

You state that the submitted standard operating procedures “consist of internal records of the [sheriff] that are maintained for internal use for the efficient and safe dispatch of 9-1-1 calls to officers in the field and their response to emergencies.” You state that the submitted information includes “procedures for undercover narcotics surveillance, processing of warrants, police radio operations and talk groups, log-in user-names and passwords, information regarding staging for raids, specialized equipment used, the telephone numbers for pagers of under-cover agents, and execution of warrants or high risk apprehensions, to name only a few.” Furthermore, you explain that release of this information could jeopardize officer safety and interfere with efficient communication and processes between dispatchers and officers in the field. You also argue that release of this information could interfere with officers’ ability to respond to various types of emergencies. Based on these arguments and our review, we find that the release of portions of the submitted information would interfere with law enforcement. Accordingly, the sheriff may withhold the information we have marked in the submitted information under section 552.108(b)(1) of the Government Code. We find, however, that the sheriff has not demonstrated that release of the remaining information would interfere with law enforcement. Thus, the remaining submitted information is not excepted from disclosure under section 552.108. As no further exceptions are raised, the remaining submitted information must be released to the requestor.

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 http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Laura E. Ream
Assistant Attorney General
Open Records Division

LER/dls

Ref: ID# 343913

Enc. Submitted documents

c: Requestor
(w/o enclosures)