



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 29, 2010

Mr. Richard R. Hicks III
Criminal District Attorney
Caldwell County
P.O. Box 869
Lockhart, Texas 78644

OR2010-01434

Dear Mr. Hicks:

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# 368880.

The Caldwell County Sheriff's Office (the "sheriff") received a request for information pertaining to work parties for trustees or other inmates occurring outside of the county jail during a specified time period. 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.¹

Initially, we note that much of the information in the submitted daily jail logs is not responsive to the instant request for information because it does not pertain to work parties for trustees or other inmates occurring outside of the county jail. This ruling does not address the public availability of any information that is not responsive to the request, and the department is not required to release the non-responsive portions of the submitted jail logs in response to the request.

¹We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach and, therefore, does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Based on your statement that the sheriff wishes to withhold "the internal records of the Caldwell County Jail," we understand you to raise section 552.108(b)(1) of the Government Code for the responsive information. Section 552.108(b)(1) provides as follows:

(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 [required public disclosure] if:

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

Gov't Code § 552.108(b)(1). Section 552.108(b)(1) is intended to protect "information which, if released, would permit private citizens to anticipate weaknesses in [a law enforcement agency], avoid detection, jeopardize officer safety, and generally undermine [law enforcement] efforts to effectuate the laws of this State." *City of Ft. Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.). 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) (holding that predecessor to section 552.108 excepts detailed guidelines regarding a police department's use of force policy), 508 (1988) (holding that release of dates of prison transfer could impair security), 413 (1984) (holding that predecessor to section 552.108 excepts sketch showing security measures for execution).

To claim this exception, a governmental body must explain how and why release of the requested information would interfere with law enforcement and crime prevention. Gov't Code §§ 552.108(b)(1), .301; Open Records Decision No. 562 at 10 (1990). Generally known policies and techniques may not be withheld under section 552.108. *See, e.g.*, Open Records Decision Nos. 531 at 2-3 (1989) (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 (1980) (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 claim that release of the responsive information, which consists of portions of the sheriff's daily jail log and the "outside trustee report" for October 2008 to October 2009, "would interfere with law enforcement and would constitute a threat to the security and safety to the Caldwell County Jail, its jailers, and inmates." Although you make these general assertions, you do not specifically explain how release of the responsive information would interfere with law enforcement and crime prevention. Thus, you have failed to establish the applicability of section 552.108(b)(1) to the responsive information and it may not be withheld on that basis. As you raise no further exceptions to the disclosure of the responsive information, it must be released.

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, toll free, at (888) 672-6787.

Sincerely,



Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/jb

Ref: ID# 368880

Enc. Submitted documents

c: Requestor
(w/o enclosures)