



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 18, 2016

Ms. Myrna S. Reingold
Legal Department
Galveston County
722 Moody Street, Fifth Floor
Galveston, Texas 77550

OR2016-06250

Dear Ms. Reingold:

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# 601968.

The Galveston County Constable's Office, Precinct No. 4 (the "constable's office") received a request for the internet usage of ten named individuals for a specified time period. You state the constable's office has released some information. You state the constable's office does not have information pertaining to one of the named individuals.¹ You claim some of the submitted information is excepted from disclosure under section 552.108 of the Government Code. Further, you state the Galveston County Sheriff's Office (the "sheriff's office") objects to the release of the some of the submitted information. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments and reviewed the submitted information.

Section 552.108(b)(1) 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

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

matters relating to law enforcement or prosecution . . . if . . . release of the internal record or notation would interfere with law enforcement or prosecution[.]” *Id.* § 552.108(b)(1); *see City of Fort Worth v. Cornyn*, 86 S.W.3d at 327 (Gov’t Code § 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). To prevail on its claim that section 552.108(b)(1) excepts information from disclosure, a governmental body must do more than merely make a conclusory assertion that releasing the information would interfere with law enforcement. Instead, the governmental body must meet its burden of explaining how and why release of the requested information would interfere with law enforcement and crime prevention. *See* Open Records Decision No. 562 at 10 (1990) (construing statutory predecessor). The statutory predecessor to section 552.108(b)(1) protected information that would reveal law enforcement techniques. *See, e.g.*, Open Records Decision Nos. 531 (1989) (detailed use of force guidelines), 456 (1987) (information regarding location of off-duty police officers), 413 (1984) (sketch showing security measures to be used at next execution). The statutory predecessor to section 552.108(b)(1) was not applicable to generally known policies and procedures. *See, e.g.*, Open Records Decision Nos. 531 at 2-3 (Penal Code provisions, common-law rules, and constitutional limitations on use of force not protected), 252 at 3 (1980) (governmental body failed to indicate why investigative procedures and techniques requested were any different from those commonly known).

The constable’s office asserts the information at issue consists of the internet browsing history of a peace officer working in Galveston County’s Auto Crimes Task Force (“ACTF”). You inform us the ACTF conducts criminal investigations and crime prevention on auto thefts, including “undercover operations in auto theft/auto parts thefts and resale.” You state the peace officer at issue “conducts online research and makes online contacts in the course of conducting criminal investigations involving the theft, sale, and acquisition of stolen automobiles/auto parts and supplies.” You further state the internet browsing history of the officer at issue is maintained by the constable’s office for the covert monitoring of persons or entities engaging in the theft, sale, or purchase of stolen automobiles and auto equipment. You argue release of the information at issue would reveal the identities of persons or entities that are being monitored, which would make it more difficult to conduct the investigations and gather intelligence on stolen automobiles. Upon review, we find the constable’s office has demonstrated release of the information at issue would interfere with law enforcement. Thus, the constable’s office may withhold the information it has indicated under section 552.108(b)(1) of the Government Code.² As the constable’s office raises no other exceptions to disclosure, the remaining information must be released.

²As our ruling is dispositive, we need not address the remaining arguments against disclosure of this 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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Paige Thompson". The signature is written in a cursive, flowing style.

Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

Ref: ID# 601968

Enc. Submitted documents

c: Requestor
(w/o enclosures)