



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 6, 2016

Mr. Vance Hinds
Assistant County & District Attorney
Ellis County
109 South Jackson
Waxahachie, Texas 75165

OR2016-12865

Dear Mr. Hinds:

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# 613205.

The Ellis County Sheriff's Office (the "sheriff's office") received a request for all written policies, procedures, and practices regarding twelve specified subjects. You state the sheriff's office has released some of the requested information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you inform us most of the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2015-01213 (2015). In that ruling, we determined the sheriff's office may withhold the information we marked under section 552.108(b)(1) of the Government Code and must release the remaining information. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, we conclude the sheriff's office may rely on Open Records Letter No. 2015-01213 as a previous determination and withhold or release the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney

general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). To the extent the submitted information is not encompassed by Open Records Letter No. 2015-01213, we will address your arguments against disclosure.

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). A governmental body claiming section 552.108(b)(1) must reasonably 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 (Tex. 1977). 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 at 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).

You state the submitted information consists of portions of the sheriff's office's policies and procedures that, if released, would interfere with law enforcement or prosecution of crime. You state release of the submitted information would "impair a law enforcement officer's ability to apprehend, arrest, investigate, safely control in jail, and prosecute a defendant." Based on your representations and our review, we agree the release of the information you have marked would interfere with law enforcement. Accordingly, the sheriff's office may withhold the information you have marked under section 552.108(b)(1) of the Government Code.¹

In summary, the sheriff's office may rely on Open Records Letter No. 2015-01213 as a previous determination and withhold or release the identical information in accordance with that ruling. The sheriff's office may withhold the information you have marked under

¹As our ruling is dispositive, we need not consider your remaining arguments against disclosure.

section 552.108(b)(1) of the Government Code. The sheriff's office 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 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,



Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/bw

Ref: ID# 613205

Enc. Submitted documents

c: Requestor
(w/o enclosures)