



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 30, 1993

Ms. Gretchen Kuehn Bohnert
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR93-736

Dear Ms. Bohnert:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code (former V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 22427.

The City of Houston Police Department (the "department") received an open records request for the department's "policies and procedures in regard to shooting investigations." You have submitted to this office as responsive to the request a two page document which outlines the standard operating procedure for police officers who assist at the scene of an aggravated assault, shooting, or "cutting." You contend this document comes under the protection of section 552.108 (former section 3(a)(8)) of the Open Records Act.

Section 552.108, known as the "law enforcement" exception, exempts from required public disclosure:

(a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime
[and]

(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

¹We note that the Seventy-Third Legislature repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46, at 988. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

Whether this exception applies to particular records depends on whether their release would "unduly interfere" with law enforcement or prosecution. Open Records Decision Nos. 434 (1986); 287 (1981). One of the purposes of the exception is to protect law enforcement and crime prevention efforts by preventing suspects and criminals from using records in evading detection and capture. See Open Records Decision Nos. 133, 127 (1976).

In Open Records Decision No. 531 (1989), this office discussed the extent to which a city police department's "Use of Force" policy could be withheld from the public pursuant to former section 3(a)(8). Noting that the policy consisted in part of restatements of Penal Code provisions, common-law rules, and constitutional limitations on the use of force, this office held that "disclosing these generally-known policies will [not] unduly interfere with law enforcement and crime prevention." Open Records Decision No. 531 at 3. That decision reflects a common sense approach in determining whether specific information in the procedure manual came under the protection of the law enforcement exception.

Similarly, the department's operating procedure for shooting incidents consists almost exclusively of "generally-known" police procedures, e.g., secure medical attention if needed, interview complainant and witnesses, etc. The release of this type of information would not unduly interfere with law enforcement. We have identified and marked one small portion of the procedure that the department may withhold pursuant to section 552.108; the remaining portions of this document must be released.

You also ask that this office advise you of any remedy available under the Open Records Act for requestors who make repetitive requests for information. A governmental entity may deny a request for information only if the information is within one of the act's exceptions to required disclosure. See Gov't Code §§ 552.006, 552.021, Subch. C. The act does not limit the number of times a requestor may request information. See Open Records Decision No. 512 (1988) (copy enclosed).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Hamilton Guajardo
Assistant Attorney General
Open Government Section

KHG/RWP/rho

Ref.: ID# 22427

Enclosures: Open Records Decision No. 512
Submitted documents

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(w/o enclosures)