



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 23, 2009

Mr. Harold Willard
Police Legal Advisor
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457

OR2009-15045

Dear Mr. Willard:

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# 359214.

The Lubbock Police Department (the "department") received a request for the department's current procedure manual. You claim portions of the submitted information are excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, you inform us some of the submitted information was the subject of previous requests for information, in response to which this office issued Open Records Letter Nos. 2007-11524 (2007), 2004-3599 (2004), 2003-4446 (2003), and 2001-5436 (2001). In those rulings, we held portions of the submitted manual may be withheld under section 552.108(b)(1) of the Government Code. With regard to the portions of the submitted manual that are identical to the portions previously requested and ruled upon by this office in the prior rulings, we conclude, as we have no indication that the law, facts, and circumstances on which the prior rulings were based have changed, the department may continue to rely on the prior rulings as previous determinations and withhold or release the identical information in accordance with the prior rulings. *See* Open Records Decision No. 673 (2001) (so long as law, facts, 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 portions of the submitted manual you seek to withhold are not encompassed by the previous rulings, we will address the submitted argument.

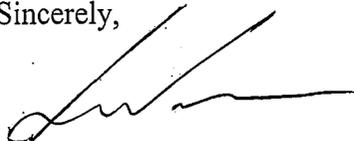
Section 552.108(b)(1) of the Government Code excepts from disclosure an internal record of a law enforcement agency that is maintained for internal use in matters relating to law enforcement or prosecution if "release of the internal record or notation would interfere with law enforcement or prosecution[.]" Gov't Code § 552.108(b)(1). Generally, 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 id.* §§ 552.108(b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). This office has on numerous occasions concluded that section 552.108 excepts from public disclosure information relating to the security or operation of a law enforcement agency. *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), 252 (1980) (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). Section 552.108(b)(1) is not applicable, however, to generally known policies and procedures. *See, e.g.*, ORD 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 release of the "tactical information" you have marked in the submitted manual could endanger the lives of department officers and give an advantage to criminal suspects. Based on your representations and our review, we determine the release of some of the information you identify would interfere with law enforcement. Accordingly, the department may withhold the information that we have marked pursuant to section 552.108(b)(1) of the Government Code. However, with respect to the remaining information you have marked, we find you have failed to demonstrate how the release of this information would interfere with law enforcement and crime prevention. Thus, no part of the remaining marked information may be withheld on this basis. As you raise no further exceptions against disclosure, the remaining information 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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

Ref: ID# 359214

Enc. Submitted documents

c: Requestor
(w/o enclosures)