



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 5, 2011

Ms. Jessica C. Eales  
Assistant City Attorney  
City of Houston  
P. O. Box 368  
Houston, Texas 77001-0368

OR2011-06183

Dear Ms. Eales:

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# 416408 (GC No. 18293).

The Houston Police Department (the "department") received a request for all General Orders used by the department. You state a portion of the requested information will be released to the requestor. You claim portions of the submitted information are excepted from disclosure under section 552.108 of the Government Code. We have also received comments from the requestor. *See* Gov't Code § 552.304 (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.

You inform us some of the requested information was the subject of previous requests for information, in response to which this office issued Open Records Letter Nos. 2010-11262 (2010), 2009-15938 (2009), 2009-00978 (2009), 2008-12754 (2008), 2008-07057 (2008), 2007-15167(2007), 2006-14725 (2006), and 2006-03239 (2006). You state the law, facts, and circumstances on which the prior rulings were based have not changed. Thus, we agree the department may continue to rely on those rulings as previous determinations and withhold or release the information at issue in accordance with them. *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). We will next address your arguments against disclosure for the requested information that is not encompassed by the previous rulings.

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) (quoting *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 Dep't of Ft. Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no writ). To demonstrate the applicability of this exception, a governmental body must meet its burden of explaining how and why release of the requested information would interfere with law enforcement and crime prevention. Open Records Decision No. 562 at 10 (1990). This office has concluded that section 552.108(b) 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 assert the highlighted portions of the submitted General Orders are excepted under section 552.108(b)(1). You have provided an affidavit from a department executive assistant chief who explains how disclosure of the information you have marked would endanger the lives of police officers and other persons, as well aid criminal elements in carrying out their criminal activity, avoiding detection, and hindering law enforcement investigative efforts. Based on these arguments and our review, we agree the department may withhold some of the highlighted portions of the submitted information under section 552.108(b)(1). However, we find the remaining information you seek to withhold consists of reporting procedures, other routine internal administrative policies and procedures, and general or publicly available information for which you have failed to establish that public access would interfere with law enforcement or endanger police officers. Accordingly, the information we have marked is not excepted from disclosure under section 552.108 and must be released.

In summary, the department may continue to rely on Open Records Letter Nos. 2010-11262, 2009-15938, 2009-00978, 2008-12754, 2008-07057, 2007-15167, 2006-14725, and 2006-03239 as previous determinations and withhold or release the information that was at

issue in accordance with those rulings. With the exception of the information we have marked for release, the department may also withhold the information you have marked in the submitted information under section 552.108(b)(1) of the Government Code. 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](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,



Misty Haberer Barham  
Assistant Attorney General  
Open Records Division

MHB/eeg

Ref: ID # 416408

Enc. Submitted documents

c: Requestor  
(w/o enclosures)