ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 28, 2011

Mr. Art Pertile, III
For City of Katy
Olson & Olson, L.L.P.
2727 Allen Parkway, Suite 600
Houston, Texas 77019

OR2011-14051

Dear Mr. Pertile:

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# 431331 (Katy ref. #COK11-008).

The City of Katy (the "city"), which you represent, received a request for "the official plan that is utilized by the [city's] Police Department for accident scenes and/or investigations of accidents" and information related to the reprimand of the police officer or officers involved in a specified incident. You claim some of the submitted information is excepted from disclosure pursuant to section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have not submitted for our review the requested reprimand information. To the extent any such information existed and was maintained by the city on the date the city received the request, we assume you have released it. *See* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible). If you have not released any such records, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

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 City of Fort Worth v. Cornyn*, 86 S.W.3d 320 at 327 (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.*, 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 (governmental body failed to indicate why investigative procedures and techniques requested were any different from those commonly known).

You state the information on pages four through seven of the submitted information consists of internal police department policies related to circumstances in which an officer is required to stop and render assistance. You contend release of the information at issue would reveal how to limit an officer's mobility by creating circumstances that require the officer to render assistance, thereby limiting the officer's ability to patrol the city for the detection of criminal activity. Upon review, we find the information we have marked consists of internal records of a law enforcement agency that, if released, would interfere with law enforcement and crime prevention. Accordingly, the city may withhold the information we have marked under section 552.108(b)(1) of the Government Code. The city has not demonstrated how the release of the remaining information at issue would interfere with law enforcement or crime prevention. Thus, the city may not withhold the remaining information under section 552.108(b)(1) of the Government Code. As you raise no additional exceptions to 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,

Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

Ref: ID# 431331

Enc. Submitted documents

c: Requestor
(w/o enclosures)