



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 20, 2011

Ms. Judi S. Rawls
Assistant City Attorney
Police Legal Counsel
City of Beaumont
P.O. Box 3827
Beaumont, Texas 77704-3827

OR2011-15389

Dear Ms. Rawls:

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# 433827 (OR 08-13).

The City of Beaumont (the “city”) received a request for the Beaumont Police Department (the “department”) use of force guidelines for 2010. You state you have released some information to the requestor. You claim portions of the submitted information are excepted from disclosure under section 552.108 of the Government Code. You also state you notified local counsel for the Combined Law Enforcement Associations of Texas of the request and of its right to submit arguments to this office explaining why the information at issue should or should not be released. *See* Gov’t Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released). We have considered the exception you claim and reviewed the submitted information.

Section 552.108(b)(1) of the Government Code excepts from disclosure “[a]n internal record or notation of a law enforcement agency or prosecutor 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); *see also* Open Records Decision No. 531 at 2 (1989) (quoting *Ex parte Pruitt*, 551 S.W.2d 706, 710 (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.” *City of Fort 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 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 (1989) (release of detailed use of force guidelines would unduly interfere with law enforcement), 252 (1980) (section 552.108 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 department use of force policy contains information regarding various security and safety measures regarding the circumstances and considerations for using specialty weapons and munitions and the circumstances and considerations for use of force when particular equipment is involved. You further state the release of this information “could provide an advantage to criminal suspects during confrontation with police” and “could impede the police in attempting to apprehend or obtain control of criminal suspects using lethal force.” Based on your arguments and our review of the information at issue, we find the release of the information you have marked would interfere with law enforcement. Accordingly, the city may withhold the marked information under section 552.108(b)(1) of the Government Code.

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,



Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/em

Ref: ID# 433827

Enc. Submitted documents

c: Requestor
(w/o enclosures)