



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 4, 2012

Mr. Charles H. Weir
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2012-00137

Dear Mr. Weir:

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# 441366 (COSA File No. W004013).

The City of San Antonio (the “city”) received a request for reports sent by the city’s police department to the Texas Department of Public Safety’s Texas Fusion Center (the “center”) from January 1, 2010 to October 26, 2011. We understand you will release some of the requested information to the requestor. You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. You indicate release of the submitted information may implicate the interests of the Department of Public Safety (“DPS”). *See* Gov’t Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released). We have received comments from DPS. We have considered the submitted arguments and reviewed the submitted information.

DPS raises section 552.108(b)(1) of the Government Code for the submitted information. Section 552.108(b)(1) 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. *Id.* § 552.108(b)(1); *see also* Open Records Decision No. 531 at 2 (1989). 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 Ft. Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.). 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)(1) 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 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). We understand the submitted information consists of communications sent by the city's police department to the center that are related to agency bulletins, situational awareness reports, and threat summaries collected and distributed to the center for law enforcement purposes. DPS explains that release of this information would "provide drug traffickers, terrorists, and other criminals with invaluable information concerning law enforcement investigative tactics" and thus interfere with law enforcement and crime prevention. Accordingly, the city may withhold the requested information under section 552.108(b)(1) of the Government Code. As our ruling is dispositive, we do not address the city's arguments against disclosure.

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,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 441366

Enc. Submitted documents

c: Requestor
(w/o enclosures)