



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 25, 2012

Mr. Elliot M. Barner
Attorney for City of West University Place
Johnson, Radcliffe, Petrov, & Bobbitt, P.L.L.C.
1001 McKinney, Suite 1000
Houston, Texas 77002-6424

OR2012-05920

Dear Mr. Barner:

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# 451794.

The City of West University Place Police Department (the "department"), which you represent, received a request for (1) a specified incident report, (2) manuals, department policies, and city policies or ordinances related to the radar device used in the specified incident, and (3) department polices regarding traffic stops. You state some information has been released. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the claimed exception 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). Section 552.108(b)(1) is intended to protect "information which, if

¹While you also raised section 552.111 in your initial letter dated February 20, 2012, you have not presented arguments explaining how this exception applies to the submitted information, as required by section 552.301. Thus, we assume you have withdrawn this claim. See Gov't Code §§ 552.301(e)(1)(A), .302.

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 general order is an internal record that contains information regarding citations, traffic enforcement, and accident investigations, and sets forth the guidelines by which the city governs traffic enforcement. You assert release of this information would allow individuals to anticipate weaknesses in the department, avoid detection, jeopardize officer safety, and undermine department efforts. Based on your arguments and our review of the information at issue, we find release of the information we have marked would interfere with law enforcement. Accordingly, the department may withhold the information we have marked under section 552.108(b)(1). However, the remaining information consists of general information, statutory requirements, commonly known techniques, and administrative policies. The department has not explained how release of this information would interfere with law enforcement; therefore, the department may not withhold the remaining information under section 552.108(b)(1). As you raise no additional arguments against disclosure, the department must release the remaining information.

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,

A handwritten signature in black ink that reads "Misty Haberer Barham". The signature is written in a cursive, flowing style.

Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/som

Ref: ID# 451794

Enc. Submitted documents

c: Requestor
(w/o enclosures)