



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 1, 2012

Ms. Karyna Soldatova
Assistant City Attorney
City of College Station
P.O. Box 9960
College Station, Texas 77842

OR2012-06269

Dear Ms. Soldatova:

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# 452253.

The College Station Police Department (the “department”) received a request for the department’s policies and procedures. You state you have released most of the requested information to the requestor. You claim some of the remaining requested 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.

The submitted information consists of the department’s policy manual (the “manual”). You inform us the manual was the subject of previous requests for information, as a result of which this office issued Open Records Letter Nos. 2011-07181 (2011) and 2011-15382 (2011). In the previous rulings, we concluded portions of the manual are excepted from disclosure under section 552.108(b)(1) of the Government Code. You do not indicate there has been any change in the law, facts, or circumstances on which the previous rulings are based. Therefore, the department must release or withhold the information at issue in accordance with Open Records Letter No. 2011-07181 and 2011-15382.¹ See Gov’t Code § 552.301(f); Open Records Decision No. 673 at 6-7 (2001) (listing elements of first type of previous determination under Gov’t Code § 552.301(a)). You state portions of the manual

¹As we are able to make this determination, we need not address your argument for the information encompassed by the previous ruling.

have been revised since the previous rulings were issued. We will consider your arguments against disclosure of those portions of the manual which were not at issue in the previous rulings.

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 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 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) (construing statutory predecessor). 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). The determination of whether the release of particular records would interfere with law enforcement is made on a case-by-case basis. Open Records Decision No. 409 at 2 (1984).

You state portions of chapters 21, 29, 34, 46, and 49 contain details relating to law enforcement tactics, regulations pertaining to the guidelines for vehicular pursuit, patrol procedures, use of force, prisoner handling, weapons use, and the methods and policies related to conducting investigations. You assert this information could be used by offenders to avoid detection or arrest and hinder police work and investigation. Based on your representations and our review, we find the department may withhold portions of the submitted information, which we have marked, under section 552.108(b)(1) of the Government Code. However, we find you have not demonstrated release of any of the remaining information at issue would interfere with law enforcement or crime prevention. We, therefore, conclude the department may not withhold any of the remaining information at issue under section 552.108(b)(1) of the Government Code.

In summary, the department must release or withhold the submitted information that was at issue in Open Records Letter Nos. 2011-07181 and 2011-15382 in accordance with the

previous rulings. The department may withhold the information we have marked 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, 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# 452253

Enc. Submitted documents

c: Requestor
(w/o enclosures)