



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 23, 2012

Mr. Jason D. King
Akers, Boulware-Wells, L.L.P.
6618 Sitio Del Rio Boulevard, Building E, Suite 102
Austin, Texas 78730

OR2012-07842

Dear Mr. King:

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# 454387.

The City of Marble Falls (the "city"), which you represent, received a request for (1) a chart of all paid city positions including any other direct or indirect compensation; (2) a list of all assets of the police, fire, and street departments to include information regarding specialized equipment; and (3) a copy of the city ordinance regarding residential requirements for city officials. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have only submitted a list of firearms held by the city's police department. To the extent any additional information responsive to the request existed on the date the city received the request, we assume you have released it. If you have not released such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* 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).

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 seek to withhold the submitted firearms list pursuant to section 552.108(b)(1) of the Government Code. You state the list is an internal record or notation of the city that is maintained for internal use. You assert release of this information would allow an individual “to accurately estimate the readiness, defensive, and offensive capabilities of the [city’s police department].” You claim this “information would provide criminals with key information regarding the armament of the [city’s police department] and give such criminal the opportunity to exploit any perceived weakness of the [city’s police department].” Additionally, you state the list shows which weapons, by type and serial number, are assigned to each officer of the city’s police department and such information would allow any individual to “know the exact offensive and defensive capabilities of each officer” and “jeopardize the safety of the officers in question.” Upon review, we find you have demonstrated that release of the firearms list would interfere with law enforcement. Therefore, the city may withhold the submitted information under section 552.108(b)(1).

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, appearing to read 'Ana Carolina Vieira', with a horizontal line underneath.

Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/ag

Ref: ID# 454387

Enc. Submitted documents

c: Requestor
(w/o enclosures)