



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 25, 2012

Ms. Tiffany N. Evans
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2012-08049

Dear Ms. Evans:

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# 454776 (GC Nos. 19478 and 19492).

The Houston Police Department (the "department") received two requests from different requestors for (1) the policies and procedures manual as it relates to the department's inventory searches of vehicles, and (2) General Order 600-10.¹ 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 a portion of the submitted information, which we have marked, is not responsive to the second request. The second requestor only seeks General Order 600-10. In response to this requestor, you have submitted a second general order and a department circular. Thus, this information is not responsive to the second request. This ruling does not address the public availability of that information in regards to the second request, and the department need not release the non-responsive information to the second requestor.

Next, you state portions of the requested information were the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2010-11262 (2010). However, you assert the facts and circumstances surrounding this information have changed since the prior ruling was issued. Further, we note the general orders now submitted

¹We will refer to the request dated March 8, 2012 as the "first request" and the request dated March 18, 2012 as the "second request."

by the department were issued after the previous ruling. Thus, we agree the circumstances have changed, and the department may not rely on Open Records Letter No. 2010-11262 as a previous determination with respect to the submitted information. *See* Open Records Decision No. 673 (2001). Accordingly, we will address your argument against disclosure of 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 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) 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 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 information consists of the department’s internal policy, procedures, responsibilities, and methods used by departmental officers in various situations. Further, you state the release of this information would compromise basic tenets of law enforcement by affording an individual or perpetrator the ability to anticipate or evade the actions of an officer given a certain circumstance. Based on your representations and our review, we agree the release of the information we have marked would interfere with law enforcement. Accordingly, the department may withhold the marked information under section 552.108(b)(1) of the Government Code. However, we find the department has not established the release of the remaining information would interfere with law enforcement; therefore, the department may not withhold any of the remaining information under section 552.108(b)(1). As you raise no other argument 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 cursive script, appearing to read "Michelle R. Garza", followed by a horizontal line extending to the right.

Michelle R. Garza
Assistant Attorney General
Open Records Division

MRG/em

Ref: ID# 454776

Enc. Submitted documents

c: Requestor
(w/o enclosures)