



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 26, 2012

Ms. Linda M. Champion
Assistant City Attorney
City of Victoria
P.O. Box 1758
Victoria, Texas 77902-1758

OR2012-11671

Dear Ms. Champion:

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# 460240 (Victoria 2012-497).

The Victoria Police Department (the "department") received a request for specified portions of the department's general orders manual. 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, you inform us the submitted use of force guidelines were the subject of previous requests for information, as a result of which this office issued Open Records Letter Nos. 2009-09231 (2009) and 2009-11778 (2009). In those rulings, we determined the department may withhold portions of the use of force guidelines under section 552.108(b)(1) of the Government Code. As we have no indication there has been any change in the law, facts, or circumstances on which these previous rulings were based, we conclude the department may rely on Open Records Letter Nos. 2009-09231, and 2009-11778 as previous determinations and continue to treat the information at issue in accordance with those rulings. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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 (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).

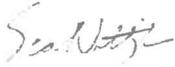
You state the remaining information includes specific guidelines for police officers confronted by violence or threatened by violence when effecting an arrest or protecting the public safety. You assert that release of these guidelines would place an individual at an advantage in confrontations with police officers and would increase the individual’s chances of evading arrest or injuring an officer or other persons. Based on your representations and our review, we find the department may withhold the information 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 may rely on Open Records Letter Nos. 2009-09231 and 2009-11778 as previous determinations and continue to treat the use of force guidelines in accordance with those rulings. The department may withhold the information we have marked under section 552.108(b)(1) of the Government Code. The department must release the remaining information at issue.

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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/bhf

Ref: ID# 460240

Enc. Submitted documents

c: Requestor
(w/o enclosures)