



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 13, 2012

Ms. Rachel L. Lindsay
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2012-18184

Dear Ms. Lindsay:

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# 470904 (ORR# 10-5983).

The McKinney Police Department (the "department"), which you represent, received a request for information related to the department's "policies regarding no-knock entrances." You claim the requested 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. We have also received and considered comments submitted by the requestor. *See Gov't Code § 552.304* (providing that interested party may submit comments stating why information should or should not be released).

Initially, we note the requestor limited the request to the department's "policies regarding no-knock entrances." You have submitted the department's policies related to search and seizure warrants and arrests in their entirety. Accordingly, except for the specified no-knock policies, the rest of the submitted policies are not responsive to the request. This decision does not address the public availability of non-responsive information and such information need not be released in response to the present request.

Section 552.108(b)(1) of the Government Code excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors when their release would interfere with law enforcement and crime prevention. *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 (Tex. 1977)).* A governmental body claiming section 552.108(b)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See Gov't Code §§ 552.108(b)(1), .301(e)(1)(A); see also Ex parte Pruitt, 551 S.W.2d 706.* 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.” See *City of Fort Worth v. Cornyn*, 86 S.W.3d 320 at 327 (Tex. App.—Austin 2002, no pet.).

This office has concluded section 552.108(b)(1) 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 of the Government Code is 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., ORD 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 assert the responsive information, if released, “would interfere with law enforcement by impairing an officer’s ability to arrest a suspect and by placing individuals at an advantage in confrontations with police.” Based on your representations and our review, we agree the release of the information at issue, which we have marked, would interfere with law enforcement. Accordingly, the department may withhold the responsive information under section 552.108(b)(1) of the Government Code. The remaining submitted information is not responsive and need not 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 470904

Enc. Submitted documents

c: Requestor
(w/o enclosures)