



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 23, 2014

Ms. Eileen M. Hayman
Counsel for the City of Knox City
Messer, Rockefeller & Fort, P.L.L.C.
4400 Buffalo Gap Road, Suite 2800
Abilene, Texas 79606

OR2014-10739

Dear Ms. Hayman:

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# 526609.

The Knox City Police Department (the "department"), which you represent, received a request for a copy of the department's current general orders. You state you have released most of the requested information. 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.

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 City of Fort Worth v. Cornyn*, 86 S.W.3d at 327 (Gov't Code § 552.108(b)(1) protects information that, if released, would permit private citizens to anticipate weaknesses in police department, avoid

detection, jeopardize officer safety, and generally undermine police efforts to effectuate state laws). The statutory predecessor to section 552.108(b)(1) protected information that would reveal law enforcement techniques. *See, e.g.*, Open Records Decision Nos. 531 (1989) (detailed use of force guidelines), 456 (1987) (information regarding location of off-duty police officers), 413 (1984) (sketch showing security measures to be used at next execution). However, to claim this aspect of section 552.108 protection a governmental body must meet its burden of explaining how and why release of the information at issue would interfere with law enforcement and crime prevention. Open Records Decision No. 562 at 10 (1990). Further, the statutory predecessor to section 552.108(b)(1) was not applicable to generally known policies and procedures. *See, e.g.*, Open Records Decision Nos. 531 at 2-3 (Penal Code provisions, common-law rules, and constitutional limitations on use of force not protected), 252 at 3 (1980) (governmental body failed to indicate why investigative procedures and techniques requested were any different from those commonly known). To prevail on its claim that section 552.108(b)(1) exempts information from disclosure, a law-enforcement agency must do more than merely make a conclusory assertion that releasing the information would interfere with law enforcement. 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).

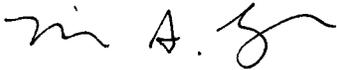
You seek to withhold the submitted information, which consists of the department's use of force guidelines, under section 552.108(b)(1). You state the information at issue "includes detailed explanations of levels of non-lethal and deadly force which an officer may use, and what specific circumstances warrant the use of such force." You also state release of this information would "greatly impair the [d]epartment's law enforcement and would put the safety of the [d]epartment's officers at risk." Upon review, we find the department has demonstrated release of the information we have marked would interfere with law enforcement and crime prevention. Accordingly, the department may withhold the information we have marked under section 552.108(b)(1) of the Government Code. However, we find the department has failed to demonstrate release of any of the remaining information would interfere with law enforcement. Accordingly, the department may not withhold any of the remaining information under section 552.108(b)(1) of the Government Code. As you raise no further exceptions to disclosure, 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.texasattorneygeneral.gov/open/>

[orl_ruling_info.shtml](#), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "N. A. Ybarra". The signature is fluid and cursive, with a large initial "N" and a stylized "Ybarra".

Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/bhf

Ref: ID# 526609

Enc. Submitted documents

c: Requestor
(w/o enclosures)