



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

January 26, 2009

Ms. Candice M. De La Garza  
Assistant City Attorney  
City of Houston  
P.O. Box 1562  
Houston, Texas 77251-1562

OR2009-00978

Dear Ms. De La Garza:

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# 333068.

The City of Houston (the "city") received a request for information and policies pertaining to accident investigations and HISD school zones in the city. You state that the city will release a portion of the responsive information to the requestor. You claim that a portion of 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 state that a portion of Exhibit 4 is the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2008-12754 (2008). In that ruling we concluded that the city's police department may withhold specified portions of general order number 500-04 under section 552.108(b)(1) of the Government Code. As we have no indication that the law, facts, and circumstances on which this prior ruling was based have changed, the city must continue to rely on this ruling as a previous determination and withhold this information under section 552.108(b)(1) in accordance with Open Records Letter No. 2008-12754. *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).

You further claim that a portion of Exhibit 2 is excepted from disclosure under section 552.108. Section 552.108 of the Government Code provides in pertinent part:

(b) An 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 is excepted from [required public disclosure] if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

Gov't Code § 552.108(b)(1). Section 552.108(b)(1) is intended to protect "information which, if released, would permit private citizens to anticipate weaknesses in [a law enforcement agency], avoid detection, jeopardize officer safety, and generally undermine [law enforcement] efforts to effectuate the laws of this State." *City of Ft. Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.). This office has stated that under the statutory predecessor to section 552.108(b), a governmental body may withhold information that would reveal law enforcement techniques or procedures. *See, e.g.*, Open Records Decision Nos. 531 (1989) (release of detailed use of force guidelines would unduly interfere with law enforcement), 456 (1987) (release of forms containing information regarding location of off-duty police officers in advance would unduly interfere with law enforcement), 413 (1984) (release of sketch showing security measures to be used at next execution would unduly interfere with law enforcement), 409 (1984) (if information regarding certain burglaries exhibit a pattern that reveals investigative techniques, information is excepted under predecessor to section 552.108), 341 (1982) (release of certain information from Department of Public Safety would unduly interfere with law enforcement because release would hamper departmental efforts to detect forgeries of drivers' licenses), 252 (1980) (predecessor to section 552.108 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).

In this instance, you have provided an affidavit from a department executive assistant chief in administrative operations who explains how disclosure of information marked in the general order at issue would provide aid and support to criminal elements in carrying out their criminal activity, avoiding detection, and hindering law enforcement investigative efforts. Based on these arguments and our review, we find that the release of the information you have marked in Exhibit 2 would interfere with law enforcement. Accordingly, the city may withhold this information under section 552.108(b)(1) of the Government Code.

In summary, the city may continue to rely on Open Records Letter No. 2008-12754 as a previous determination and withhold the marked portion of Exhibit 4 in accordance with that ruling. The city may also withhold the marked portion in Exhibit 2 under section 552.108(b)(1) of the Government Code. 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.oag.state.tx.us/open/index\\_orl.php](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 at (512) 475-2497.

Sincerely,



Adam Leiber  
Assistant Attorney General  
Open Records Division

ACL/jb

Ref: ID# 333068

Enc. Submitted documents

c: Requestor  
(w/o enclosures)