



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 29, 2009

Ms. Luz E. Sandoval-Walker  
Assistant City Attorney  
City of El Paso  
2 Civic Center Plaza, 9th Floor  
El Paso, Texas 79901

OR2009-13667

Dear Ms. Sandoval-Walker:

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# 356689.

The El Paso Police Department (the "department") received a request for copies of any and all instruction materials used to train and teach law enforcement personnel about: (1) how to detect persons who are driving while under the influence of alcohol ("DWI"), (2) how to make a DWI arrest, (3) how to conduct field sobriety tests, (4) how to testify in court, and (5) how to draft a probable cause affidavit, complaint and report; as well as, any and all documents, e-mails, memos, and other written communications setting forth the department's policies and procedures regarding: (1) DWI arrests, (2) when and how to take blood from a person who is suspected of DWI and who has been involved in an automobile accident, (3) DWI arrests involving a suspect who was in an automobile accident, and (4) drafting probable cause affidavits, complaints, and reports. 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 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, 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.” See *City of Ft. 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. See 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 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., 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 (governmental body failed to indicate why investigative procedures and techniques requested were any different from those commonly known).

Based on our review of the information at issue, we find the release of portions of the department’s manuals would interfere with the department’s efforts to detect and investigate DWI cases. Accordingly, the department may withhold the information we have marked in Exhibit B under section 552.108(b)(1) of the Government Code. However, you have not explained how or why release of the remaining information in the department’s manuals would interfere with law enforcement and crime prevention. Additionally, the majority of the information submitted on the diskettes is part of a standardized training course produced by the U.S. Department of Transportation National Highway Traffic Safety Administration. The various components of this course are publicly-available on the Internet. You have not explained how or why release of information that is publicly-available would interfere with law enforcement and crime prevention. Therefore, the department may not withhold any of the information contained on the diskettes under section 552.108(b)(1). As you raise no further exceptions, 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, toll free, at (888) 672-6787.

Sincerely,



Jessica Eales  
Assistant Attorney General  
Open Records Division

JCE/eeg

Ref: ID# 356689

Enc. Submitted documents

c: Requestor  
(w/o enclosures)