



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 22, 2012

Ms. Julie V. Pandya
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

OR2012-02730

Dear Ms. Pandya:

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# 446062.

The Farmers Branch Police Department (the "department"), which you represent, received a request for information pertaining to (1) traffic code violation citations and warning tickets, including for speeding; (2) fines collected from citations; (3) complaints against and discipline of department officers, each during a specified time period; (4) certain department policy codes and regulations; and (5) the number of traffic violator contacts required of department officers per day. You state the department has released some 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.

You inform us the department sought and received clarification of the request for information. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed). You state subsequent to the department's receipt of the requestor's clarification, the department again sought clarification of the portion of the request for certain department policy codes and regulations. *See* Open Records Decision No. 31 (1974) (when presented with broad requests for information rather than for specific

records, governmental body may advise requestor of types of information available so that request may be properly narrowed). You state the department has not received clarification of the portion of the request at issue. However, a governmental body must make a good-faith effort to relate a request for information held by the governmental body. *See* Open Records Decision No. 561 at 8 (1990). In this case, as you have submitted for our review information responsive to that portion of the request, and raised an exception to disclosure for this information, we consider the department to have made a good-faith effort to identify the information that is responsive to the request, and we will address the applicability of the claimed exception to the information at issue.

We note the submitted information contains copies of state statutes. Because statutes and ordinances are binding on members of the public, they are matters of public record and may not be withheld from disclosure under the Act. *See* Open Records Decision Nos. 551 at 2-3 (1990) (laws or ordinances are open records), 221 at 1 (1979) (official records of governmental body's public proceedings are among most open of records). Therefore, the submitted copies of statutes, which we have noted, must be released.

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 writ). 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).

You state the remaining information consists of general orders and special operating procedures of the department. You explain release of this information would allow citizens to detect weaknesses in the department and jeopardize officer safety. You further argue release of the information at issue would compromise the department's response to ongoing crimes and emergencies, allow criminals to avoid detection, allow private citizens to interfere

with communications, and undermine the department's ability to collect evidence. Based on your representations and our review, we find the information we have noted consists of internal records of a law enforcement agency that, if released, would interfere with law enforcement and crime prevention. Accordingly, the department may withhold this information under section 552.108(b)(1) of the Government Code. However, you have failed to demonstrate how any portion of the remaining submitted information would interfere with law enforcement and crime prevention. Thus, the department may not withhold any of the remaining information under section 552.108(b)(1).

In summary, the department may withhold the information we have noted under section 552.108(b)(1). The remaining information, including the submitted copies of state statutes, 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, 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/agn

Ref: ID# 446062

Enc. Submitted documents

c: Requestor
(w/o enclosures)