



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 24, 2012

Ms. Jennifer DeCurtis
Counsel for the City of Lavon
Messer, Campbell & Brady
6351 Preston Road, Suite 350
Frisco, Texas 75034

OR2012-11458

Dear Ms. DeCurtis:

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# 459834.

The City of Lavon (the "city"), which you represent, received a request for the city's police department's policy and procedures manual. You claim portions of the submitted information are 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 provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]

...

(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 (a)(1), (b)(1). A governmental body claiming subsection 552.108(a)(1) or subsection 552.108(b)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), (b)(1), .301(e)(1)(A) (governmental body must provide comments explaining why claimed exceptions to disclosure apply); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Subsection 552.108(a)(1) protects information, the release of which would interfere with a particular pending criminal investigation or prosecution, while subsection 552.108(b)(1) encompasses internal law enforcement and prosecution records, the release of which would interfere with ongoing law enforcement and prosecution efforts in general. Upon review, we find that you have failed to explain how release of the submitted information would interfere with a particular criminal investigation or prosecution. Thus, you have not established section 552.108(a)(1) applies to the submitted information, and therefore, none of the information may be withheld under this exception.

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." *City of Fort Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.). 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 (1989) (release of detailed use of force guidelines would unduly interfere with law enforcement), 252 (1980) (section 552.108 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.*, ORDs 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). 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 state release of the information you have indicated would "impair [a police] officer's ability to arrest a suspect or detail the [city's police] department's use of force." Further, you state disclosure of the information which governs the actions of officers would provide an advantage to individuals involved in a confrontation with officers and put officers in extreme

danger. Based on your representations and our review, we find the city may withhold portions of the submitted information, which we have marked, under section 552.108(b)(1) of the Government Code. However, we find you have not demonstrated release of any of the remaining information at issue would interfere with law enforcement or crime prevention. Therefore, we conclude the city may not withhold any of the remaining information at issue under section 552.108(b)(1) of the Government Code. As no other exceptions have been raised, the city must release the remaining information.

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,



Michelle R. Garza
Assistant Attorney General
Open Records Division

MRG/som

Ref: ID# 459834

Enc. Submitted documents

c: Requestor
(w/o enclosures)