



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 20, 2013

Ms. Jessica D. Richard
Assistant City Attorney
Office of the City Attorney
City of New Braunfels
424 South Castell Avenue
New Braunfels, Texas 78130

OR2013-20267

Dear Ms. Richard:

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# 506543 (ORR No. 2013-356).

The New Braunfels Police Department (the “department”) received a request for the department’s policy manual. 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.

Initially, we note the department only submitted information related to three department policies. To the extent additional responsive information existed and was maintained by the department at the time the department received the instant request for information, we assume the department has released it to the requestor. If not, then the department must do so immediately. *See* Gov’t Code §§ 552.006, .301, .302; Open Records Decision No. 664 (2000).

Based on the substance of your arguments, we understand you to argue section 552.108(b)(1) of the Government, which 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). 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 pet.). A governmental body claiming section 552.108(b)(1) must explain how and why release of the information

at issue would interfere with law enforcement and crime prevention. *See* Open Records Decision No. 562 at 10 (1990). The statutory predecessor to section 552.108(b)(1) protected information that would reveal law enforcement techniques, but was not applicable to generally known policies and procedures. *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); *but see* 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).

You seek to withhold the submitted information under section 552.108(b)(1). You state the information at issue relates to the department's tactical and strategic procedures. You assert release of the information at issue would impair an officer's ability to arrest a suspect, place individuals at an advantage in confrontations with the police, and put potential suspects on notice of how and when a police officer would respond. Based on your representations and our review, we conclude 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 not sufficiently demonstrated the release of the remaining information would interfere with law enforcement or crime prevention and may not withhold any of the remaining information under section 552.108(b)(1). As you raise no further exceptions to disclosure, the department 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.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,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/eb

Ref: ID# 506543

Enc. Submitted documents

c: Requestor
(w/o enclosures)