



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 2, 2014

Ms. Judi S. Rawls
Police Legal Counsel
Beaumont Police Department
P.O. Box 3827
Beaumont, Texas 77704-3827

OR2014-11363

Dear Ms. Rawls:

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# 527735.

The Beaumont Police Department (the "department") received a request for directives or policies pertaining to police pursuits, operations of city vehicles, and lying by omission by an officer. You state the department has released some information to the requestor. 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, you inform us some of the requested information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2011-13819 (2011). In Open Records Letter No. 2011-13819, we concluded the department may withhold certain information under section 552.108(b)(1) of the Government Code. There is no indication the law, facts, and circumstances on which the prior ruling was based have changed. Accordingly, for the requested information that is identical to the information previously requested and ruled upon by this office, we conclude the department may continue to rely on Open Records Letter No. 2011-13819 as a previous determination and withhold or release the identical information in accordance with that ruling. *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 information is or is not excepted from disclosure). However, you state the information in Exhibit B is similar but not identical to the information previously ruled upon in Open Records Letter No. 2011-13819. As such, we address your argument against the disclosure of Exhibit B.

Section 552.108(b)(1) of the Government Code 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.” *City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.). To prevail on its claim that subsection 552.108(b)(1) excepts information from disclosure, a governmental body must do more than merely make a conclusory assertion that releasing the information would interfere with law enforcement. Instead, the 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) (construing statutory predecessor). This office has concluded that 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.*, 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).

You contend release of the information at issue in Exhibit B would permit persons who are attempting to evade police to avoid detection or apprehension in vehicle pursuit situations. You assert release of the information at issue would jeopardize officer safety because it could enable individuals evading police to anticipate officer and vehicle response to specific pursuit scenarios. Based on your arguments and our review, we find the release of the information we marked would interfere with law enforcement. Accordingly, the department may withhold the information we marked under section 552.108(b)(1). However, we find you have failed to demonstrate how the remaining information would interfere with law enforcement. Consequently, the department may not withhold the remaining information under section 552.108(b)(1).

In summary, for the requested information that is identical to the information previously requested and ruled upon by this office, the department may continue to rely on Open Records Letter No. 2011-13819 as a previous determination and withhold or release the identical information in accordance with that ruling. The department may withhold the information we marked under section 552.108(b)(1). 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,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

Ref: ID# 527735

Enc. Submitted documents

c: Requestor
(w/o enclosures)