



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 28, 2015

Mr. James Kopp
Assistant City Attorney
Office of the City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2015-18008

Dear Mr. Kopp:

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# 577230 (COSA File No. W085803).

The City of San Antonio (the "city") received a request for the policies related to former city police officers carrying concealed handguns and a list of names of officers who have applied to carry concealed handguns. You state the city will release the requested policies. You claim the remaining requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative samples of information.¹

Initially, we note the requestor seeks only the names of individuals who have applied for concealed handgun licenses. Thus, any information other than the names of those individuals is not responsive to the request. Additionally, some of the information you submitted was created after the date the city received the request. That information, which we marked, is also not responsive to the request. This ruling does not address the public availability of

¹We understand you have submitted blank forms as representative of the completed forms. Although in this instance we can determine the extent to which this fungible information may be excepted from disclosure, we advise the city in the future to submit for review the actual information or forms that it seeks to protect from disclosure and for which it seeks a ruling from this office. See Gov't Code §§ 552.301, .302.

information that is not responsive to the request, and the city is not required to release non-responsive information.

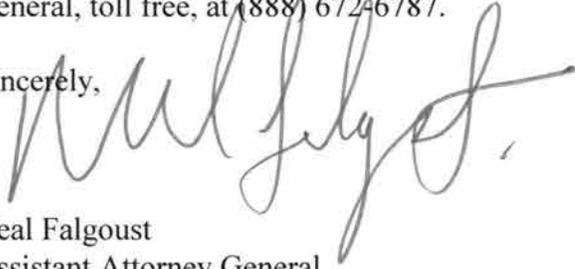
Section 552.108(b)(1) of the Government Code excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors when their release would interfere with law enforcement and crime prevention. Gov't Code § 552.108(b)(1); *see also* Open Records Decision No. 531 at 2 (1989). 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.). 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. Open Records Decision No. 562 at 10 (1990). This office has concluded section 552.108(b)(1) 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 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 explain the city assists its former police officers in applying for a license to carry a concealed handgun because doing so provides the public with additional protection by individuals who are trained in law enforcement and in the use of firearms, a vital public safety interest. You argue releasing the names of those individuals would undermine that interest and expose those individuals to potential harm. Based on these arguments and our review, we agree the release of the responsive information would interfere with law enforcement and crime prevention. Accordingly, the city may withhold the responsive information under section 552.108(b)(1) of the Government Code. As our ruling is dispositive, we do not address your remaining arguments.

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,

A handwritten signature in black ink, appearing to read 'Neal Falgoust', written over the word 'Sincerely,'.

Neal Falgoust
Assistant Attorney General
Open Records Division

NF/bhf

Ref: ID# 577230

Enc. Submitted documents

c: Requestor
(w/o enclosures)