



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 4, 2015

Ms. Judy Hickman
Assistant Supervisor
Records Division
Beaumont Police Department
P.O. Box 3827
Beaumont, Texas 77704-2548

OR2015-25414

Dear Ms. Hickman:

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# 589463.

The Beaumont Police Department (the "department") received a request for all records, including photographs, video recordings, crash reports, and incident logs, pertaining to the death a named individual on a specified date and the conviction of a named individual on a specified date. You state you have released some information. You claim the submitted 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 information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 of the Government Code encompasses information made confidential by other statutes. The submitted information contains a Firearms Trace Summary that was provided to the department by the National Trace Center of the Department of Justice Bureau of Alcohol, Tobacco, Firearms and Explosives (the "ATF"). Public Law number 112-55 states, in pertinent part,

[D]uring the current fiscal year and in each fiscal year thereafter, no funds appropriated under [the Consolidated and Further Continuing Appropriations Act, 2012] or any other [a]ct may be used to disclose part or all of the contents of the Firearms Trace System database maintained by the National Trace Center of the [ATF] or any information required to be kept by licensees pursuant to section 923(g) of title 18, United States Code, or required to be reported pursuant to paragraphs (3) and (7) of such section, except to: (1) a

Federal, State, local, or tribal law enforcement agency, or a Federal, State, or local prosecutor . . . unless such disclosure of such data to an[] . . . entit[y] described in (1) . . . of this proviso would compromise the identity of any undercover law enforcement officer or confidential informant, or interfere with any case under investigation; and no person or entity described in (1) . . . shall knowingly and publicly disclose such data; and all such data shall be immune from legal process, shall not be subject to subpoena or other discovery, shall be inadmissible in evidence, and shall not be used, relied on, or disclosed in any manner, nor shall testimony or other evidence be permitted based on the data, in a civil action in any State[.]

Consolidated and Further Continuing Appropriations Act, 2012, Pub. L. No. 112-55, 125 Stat. 552, 609-10 (2011). We understand the Firearms Trace Summary contains content from the Firearms Trace System database maintained by the National Trace Center. Upon review, we find the Firearms Trace Summary we have marked is confidential under Public Law number 112-55. *See Miller v. U.S. Dep't of Justice*, 562 F. Supp. 2d 82, 111 (D.D.C. 2008) (holding Firearms Trace Report properly withheld under Freedom of Information Act exemption 3, which covers records that are exempt from disclosure by statute). Accordingly, the department must withhold the Firearms Trace Summary we have marked under section 552.101 of the Government Code in conjunction with Public Law number 112-55.

Section 552.108(b)(1) of the Government Code exempts 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 pet.). This office has concluded section 552.108(b)(1) exempts 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 state release of the photographs containing serial numbers for a firearm would enable the serial number to be used on illegal firearms or in a false missing weapon report. You state release of this information would interfere with law enforcement. Based on your representations and our review, we agree the release of the serial number we marked would interfere with law enforcement. Accordingly, the department may withhold the firearm serial number we have marked under section 552.108(b)(1) of the Government Code. However, we conclude the department has not established the release of the remaining information at issue would interfere with law enforcement. Therefore, the department may not withhold any of the remaining information under section 552.108(b)(1).

In summary, the department must withhold the Firearms Trace Summary we have marked under section 552.101 of the Government Code in conjunction with Public Law number 112-55. The department may withhold the firearm serial number we have marked under section 552.108(b)(1) of the Government Code. The remaining information 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.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,



Cole Hutchison
Assistant Attorney General
Open Records Division

CH/bhf

Ref: ID# 589463

Enc. Submitted documents

c: Requestor
(w/o enclosures)