



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 15, 2015

Mr. Charles D. Olson
For the City of Meridian
Haley & Olson
510 North Valley Mills Drive, Suite 600
Waco, Texas 76710

OR2015-26393

Dear Mr. Olson:

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# 590743.

The City of Meridian (the "city"), which you represent, received a request for the city's police department's policy record, the personnel file of the requestor, and the work schedules for a specified time period. You state the city does not have the requested policy record.¹ You state you will release the requested personnel file to the requestor upon payment of costs. 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 state, and provide documentation demonstrating, the city sought clarification with respect to the portion of the request for information seeking the city's police department's policy record. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010). You state the city has not received a response

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

from the requestor. Nonetheless, a governmental body has a duty to make a good-faith effort to relate a request for information to information the governmental body holds. Open Records Decision No. 561 (1990). In this case, as you have submitted information responsive to the portion of the request seeking the city's police department's policy record and have made arguments against disclosure of this information, we will address the applicability of your arguments to the submitted information.

Section 552.108(b) 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 (1) release of the internal record or notation would interfere with law enforcement or prosecution[.]" Gov't Code § 552.108(b)(1). This section 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.). This office has concluded this provision protects certain kinds of information, the disclosure of which might compromise the security or operations of a law enforcement agency. *See, e.g.*, Open Records Decision Nos. 531 at 3-4 (1989) (detailed guidelines regarding police department's use of force policy), 508 at 3-4 (1988) (information relating to future transfers of prisoners), 413 (1984) (sketch showing security measures for forthcoming execution). However, to claim this aspect of section 552.108 protection a governmental body must meet its burden of explaining how and why release of the information at issue would interfere with law enforcement and crime prevention. Open Records Decision No. 562 at 10 (1990). Further, commonly known policies and techniques may not be withheld under section 552.108. *See, e.g.*, Open Records Decision Nos. 531 at 2-3 (former section 552.108 does not protect Penal Code provisions, common-law rules, and constitutional limitations on use of force), 252 at 3 (1980) (governmental body did not meet burden because it did not indicate why investigative procedures and techniques submitted were any different from those commonly known with law enforcement and crime prevention). To prevail on its claim that section 552.108(b)(1) excepts information from disclosure, a law-enforcement agency must do more than merely make a conclusory assertion that releasing the information would interfere with law enforcement. 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).

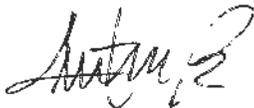
You argue a portion of the submitted information reveals the work schedules of officers of the city's police department. You explain release of this information "would permit private citizens to anticipate weaknesses in police department coverage, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate the laws of the State." You further state the remaining information contains the city's police department's policies and guidelines. You argue release of this information would interfere with law enforcement and prosecution. Upon review, we find the city has demonstrated release of a portion of the information, which we have marked, would interfere with law enforcement. Thus, the city

may withhold the information we have marked under section 552.108(b)(1) of the Government Code. However, the city has failed to demonstrate the remaining information would interfere with law enforcement. Thus, the city may not withhold the remaining information under section 552.108(b)(1) of the Government Code. As you raise no other exceptions to disclosure of this information, it 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,



Cristian Rosas-Grillet
Assistant Attorney General
Open Records Division

CRG/akg

Ref: ID# 590743

Enc. Submitted documents

c: Requestor
(w/o enclosures)