



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 7, 2016

Ms. Theresa James
City Attorney
Office of the City Attorney
City of San Angelo
72 West College Avenue
San Angelo, Texas 76903

OR2016-05281

Dear Ms. James:

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# 600863.

The City of San Angelo (the "city") received a request for the city's police department's policy manual. The city claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have received comments from the requestor. *See Gov't Code § 552.304* (interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments and reviewed the submitted information.

Initially, the city states some of the responsive information was the subject of a previous request for information in response to which this office issued Open Records Letter No. 2013-17011 (2013). In Open Records Letter No. 2013-17011, we ruled the city may withhold the information we marked under section 552.108(b)(1) of the Government Code and release the remaining information. As we have no indication the law, facts, and circumstances on which the prior ruling was based has changed, the city may continue to rely on Open Records Letter No. 2013-17011 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 a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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) (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) excepts from public disclosure information relating to the security or operation of a law enforcement agency. *See, e.g.*, ORDs 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).

The city states the submitted information is protected by section 552.108(b)(1) of the Government Code. The city states the information at issue consists of "highly-specific guidelines [the release of which] would impair an officer's ability to arrest or investigate individuals and would place individuals at an advantage in confrontation with police." The city argues release of the information would increase the chances of suspects evading arrest or investigation and injuring an officer or other person. The city also argues allowing access to the information at issue would notify people how to manipulate an arrest or an investigation to avoid criminal charges. The city further contends release of the information would familiarize the general public with an officer's restrictions during an arrest, investigation or other procedure and would allow the public to take advantage of such information to the officer's detriment. Thus, the city states release of the submitted information would interfere with law enforcement. Based on these representations and our review, we agree the release of some of the information at issue, which we have marked, would interfere with law enforcement. Accordingly, the city may withhold the information we marked under section 552.108(b)(1) of the Government Code. However, we find the city has not demonstrated any of the remaining information would interfere with law enforcement

or crime prevention. Accordingly, the city may not withhold any of the remaining information under section 552.108(b)(1) of the Government Code.

In summary, the city may continue to rely on Open Records Letter No. 2013-17011 as a previous determination and withhold or release the identical information in accordance with that ruling. The city may withhold the information we marked under section 552.108(b)(1) of the Government Code. The city 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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/som

Ref: ID# 600863

Enc. Submitted documents

c: Requestor
(w/o enclosures)