



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 10, 2019

Ms. Kristie L. Lewis
HPD Staff Attorney
City of Houston
1200 Travis, 21st Floor
Houston, Texas 77002-6000

OR2019-12553

Dear Ms. Lewis:

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# 764831 (OR# 19-02007).

The Houston Police Department (the "department") received a request for the department's general orders. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Initially, you state some of the requested information was the subject of previous requests for rulings, as a result of which this office issued Open Records Letter Nos. 2006-03239 (2006), 2006-14725 (2006), 2007-15167 (2007), 2008-07057 (2008), 2008-12754 (2008), 2009-00978 (2009), 2009-15938 (2009), 2010-11262 (2010), 2011-06183 (2011), 2016-24823 (2016), 2017-23432 (2017), and 2018-29596 (2018). We have no indication the law, facts, or circumstances on which the prior rulings were based have changed. Thus, the department must continue to rely on these prior rulings as previous determinations and withhold or release the information at issue in accordance with these rulings.¹ *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

¹As we are able to make this determination, we need not address the arguments against disclosure of this information.

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). To the extent the submitted information is not identical to the information responsive in the previous rulings, we will address your arguments against its 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. *See* 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 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 (Tex. 1977). 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.*, 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 the information you marked, if released, would interfere with law enforcement. You also state the release of the information at issue would give suspects an advantage in certain situations and pose a safety risk to officers and the general public. Based upon your representations and our review, we agree the release of the information at issue would interfere with law enforcement. Accordingly, the department may withhold the information you marked under section 552.108(b)(1) of the Government Code.²

In summary, the department must continue to rely on Open Records Letter Nos. 2006-03239, 2006-14725, 2007-15167, 2008-07057, 2008-12754, 2009-00978, 2009-15938, 2010-11262, 2011-06183, 2016-24823, 2017-23432, and 2018-29596 as previous determinations and withhold or release the information at issue in accordance with these rulings. The

²As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

department may withhold the information you marked under section 552.108(b)(1) of the Government Code. 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,



James M. Graham
Assistant Attorney General
Open Records Division

JMG/mo

Ref: ID# 764831

Enc. Submitted documents

c: Requestor
(w/o enclosures)