



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 16, 2020

Ms. Claudene Marshall
Assistant General Counsel
The Texas A&M University System
301 Tarrow Street, 6th Floor
College Station, Texas 77840-7896

OR2020-08204

Dear Ms. Marshall:

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# 816666 (Ref. No. C002704-120919).

Texas A&M University (the "university") received a request for information pertaining to equipment owned by the university's police department (the "department").¹ You claim portions of the submitted information are excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information, which we understand to be a representative sample.²

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 explain how and

¹ The university states it sought and received clarification of the information requested. *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) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

² We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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, 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 portions of the submitted information, if released, would interfere with law enforcement. You state release of the information at issue would unduly interfere with the department's enforcement of law by revealing the specific firearms the department owns, the specific weapons officers are assigned, and the firearms training its officers received. Based on these representations and our review, we agree release of some of the information at issue, which we have marked and indicated, would interfere with law enforcement. Accordingly, the university may withhold the information we have marked and indicated under section 552.108(b)(1) of the Government Code.³ However, we find you have failed to demonstrate release of the remaining information at issue would interfere with law enforcement or crime prevention. Accordingly, the university may not withhold any of the remaining information under section 552.108(b)(1) of the Government Code.

Section 552.108(b)(2) of the Government Code excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors if "the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication[.]" Gov't Code § 552.108(b)(2). Section 552.108(b)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in a conviction or deferred adjudication. A governmental body claiming section 552.108(b)(2) must demonstrate the information at issue relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* §§ 552.108(b)(2), .301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). Upon review, we find you have failed to demonstrate the remaining information at issue pertains to an investigation that concluded in a final result other than a conviction or deferred adjudication. Thus, we find you failed to demonstrate the applicability of section 552.108(b)(2) to the remaining information. Therefore, the university may not

³ As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

withhold any of the remaining information under section 552.108(b)(2) of the Government Code.

In summary, the university may withhold the information we have marked and indicated under section 552.108(b)(1) of the Government Code. The university 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alex Burks', with a long horizontal flourish extending to the right.

Alexandra C. Burks
Attorney
Open Records Division

ACB/be

Ref: ID# 816666

Enc. Submitted documents

c: Requestor
(w/o enclosures)