



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 24, 2020

Mr. Alexander Garcia  
Assistant City Attorney  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2020-21201

Dear Mr. Garcia:

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# 841522 (ORR# JTri1).

The Corpus Christi Police Department (the "department") received a request for the department's policies and procedures on use of audio and video recording equipment. The department states it is releasing some of the requested information. The department claims some of the submitted information is excepted from disclosure under section 552.108 of the Government Code.<sup>1</sup> We have considered the exception the department claims and reviewed the submitted information.

Initially, the department states some of the submitted information was the subject of prior requests for information. The department states it will withhold some of the requested information in reliance on the previous determinations in Open Records Letter Nos. 2015-25790 (2015) and 2016-23565 (2016). *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 prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). We note some of the submitted information also may have been the subject of

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<sup>1</sup> Although the department also raises section 552.152 of the Government Code, the department has not provided any arguments to support this exception. Therefore, we assume the department has withdrawn its claim this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

Open Records Letter No. 2019-28690 (2019). In that ruling, we determined the department may withhold the information we marked under section 552.108(b)(1) of the Government Code and must release the remaining information. We have no indication there has been any change in the law, facts, or circumstances on which Open Records Letter No. 2019-28690 was based. Accordingly, to the extent any of the submitted information is identical to the information previously requested and ruled upon by this office, the department must rely on Open Records Letter No. 2019-28690 as a previous determination and withhold or release the identical information in accordance with that ruling. *See id.*

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 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.*, Open Records Decision Nos. 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 department asserts portions of the submitted information, which it marked, concerns procedures that are not commonly known to the general public, and release of the information would inhibit the effective performance of law enforcement functions, negatively impacting the officers' ability to apprehend suspects and potentially placing the lives and safety of officers and other persons in jeopardy. Based on these representations and our review, we determine release of some of the information at issue, which we marked, would interfere with law enforcement. Therefore, the department may withhold the information we marked under section 552.108(b)(1) of the Government Code. However, we find the release of the remaining information the department seeks to withhold would not interfere with law enforcement, and thus, it may not be withheld under section 552.108(b).

In summary, to the extent any of the submitted information is identical to the information previously requested and ruled upon by this office, the department must rely on Open Records Letter No. 2019-28690 as a previous determination and withhold or release the

identical information in accordance with that ruling. The department may withhold the information it 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 <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,

Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/mo

Ref: ID# 841522

Enc. Submitted documents

c: Requestor  
(w/o enclosures)