



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 30, 2017

Ms. L. Carolyn Nivens
Counsel for the City of Seabrook
Ross, Banks, May, Cron & Cavin, P.C.
7700 San Felipe Street, Suite 550
Houston, Texas 77063-1618

OR2017-02034

Dear Mr. Nivens:

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# 643563 (File No. 3957-1)

The City of Seabrook (the "city"), which you represent, received a request for a list of the city's police department (the "department") vehicles signed out for take home, including the vehicle number, license plate number, the name and badge number of the officer assigned to the vehicle, and the make and model of the vehicle. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.152 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release.² Gov't Code § 552.130(a). Upon review, we find the city must

¹Although the city also claims section 552.101, it makes no argument under this exception. Thus, we do not address section 552.101. *See* Gov't Code §§ 552.301, .302.

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.³

Section 552.108(b)(1) 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 . . . release of the internal record or notation would interfere with law enforcement or prosecution[.]” *Id.* § 552.108(b)(1). 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.” *City of Fort Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no writ). To demonstrate the applicability of this exception, a governmental body must meet its burden of explaining how and why release of the requested information would interfere with law enforcement and crime prevention. Open Records Decision No. 562 at 10 (1990). This office has concluded section 552.108(b) excepts from public disclosure information relating to the security or operation of a law enforcement agency. *See, e.g.*, Open Records Decision Nos. 531 (1989) (release of detailed use of force guidelines would unduly interfere with law enforcement), 252 (1980) (section 552.108 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 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 seek to withhold the remaining information at issue pertaining to take-home vehicles under section 552.108(b)(1). You contend release of the information at issue would aid criminals in identifying officers and their residences and make it easier for criminals to track, follow, or compromise an officer and an officer’s family. You also assert release of the information at issue would permit citizens to anticipate weaknesses in the city and undermine the city’s efforts to effectuate the laws of this state. Based on your representations and our review, we conclude the city may withhold the information we have marked under section 552.108(b)(1) of the Government Code.⁴ However, we find you have not demonstrated any of the remaining information at issue would interfere with law enforcement

³As our ruling for this information is dispositive, we need not address your arguments against its disclosure.

⁴As our ruling for this information is dispositive, we need not address your remaining argument against its disclosure.

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

You seek to withhold the remaining information under section 552.152 of the Government Code. Section 552.152 provides,

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from [required public disclosure] if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.152. Upon review, we find you have not demonstrated the release of any of the remaining information would subject an employee of the city to a substantial threat of physical harm. Thus, the city may not withhold any of the remaining information under section 552.152 of the Government Code.

In summary, the city must withhold the information we have marked under section 552.130 of the Government Code. The city may withhold the information we have 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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/som

Ref: ID# 643563

Enc. Submitted documents

c: Requestor
(w/o enclosures)