



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 24, 2018

Mr. Oscar G. Gabaldón, Jr.
Assistant City Attorney
Office of the City Attorney
City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890

OR2018-01562

Dear Mr. Gabaldón:

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# 690437 (City Case No. 17-1026-8912).

The City of El Paso (the "city") received a request for city police department overtime request forms within a designated period of time. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

You seek to withhold the submitted information under section 552.108 of the Government Code. 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. *Id.* § 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 (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.*, 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).

You state the submitted information gives officer names, the officers' normally scheduled work hours and scheduled days off, officer work locations, and what activities the officers are engaged in. You also contend this information could interfere with law enforcement or crime prevention because criminals could use the details of the officers' work schedules to "form a fairly detailed picture of when and where the officers are or are not, and what [the officers] may be doing." You explain department operations could be disrupted and persons could take advantage of department restrictions and anticipate and thwart possible department responses. Thus, you state that release of this information could potentially "endanger the lives and safety of police officers, and consequently the public in general." Upon review, we agree the release of the information we indicated would interfere with law enforcement or crime prevention. Accordingly, the city may withhold the information we indicated under section 552.108(b)(1) of the Government Code. However, we find you failed to demonstrate how any of the remaining information at issue 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.

Section 552.152 of the Government Code 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.

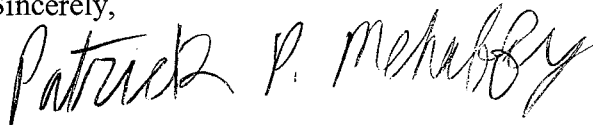
Id. § 552.152. You generally raise section 552.152 of the Government Code. Upon review, we find you failed to demonstrate the release of the remaining information would subject an employee or officer to a substantial risk of physical harm. Accordingly, the city may not withhold any portion of the remaining information under section 552.152 of the Government Code.

In summary, the city may withhold the information we indicated 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,

A handwritten signature in black ink that reads "Patrick P. Mehaffy". The signature is written in a cursive, flowing style.

Patrick P. Mehaffy
Attorney
Open Records Division

PPM/som

Ref: ID# 690437

Enc. Submitted documents

c: Requestor
(w/o enclosures)