



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 10, 2019

Mr. James Kopp
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78207

OR2019-28534

Dear Mr. Kopp:

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# 797833 (COSA File No. W281119).

The City of San Antonio (the "city") received a request for information pertaining two specified incidents. You claim portions of the submitted information are 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.

You seek to withhold the identifying information of undercover officers from the submitted 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. You represent the release of a portion of the submitted information would subject officers to a substantial threat of physical harm. Therefore, we find section 552.152 is applicable to the information we marked within the submitted information. Accordingly, the city must withhold the information we marked under section 552.152 of

the Government Code. However, we find you have 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 of the remaining information under section 552.152 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. 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.,* 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).

Although you assert section 552.108(b)(1) for portions of the remaining information, we find you have not demonstrated any of the remaining information 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.

In summary, the city must withhold the identifying information of the undercover officers, which we have marked, under section 552.152 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 <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,



Jesse Harvey
Assistant Attorney General
Open Records Division

JHI/rm

Ref: ID# 797833

Enc. Submitted documents

c: Requestor
(w/o enclosures)