



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 18, 2020

Mr. Brett W. Hale
Counsel for the City of Lakeside
Hale Law Office
P.O. Box 98
Iowa Park, Texas 76367

OR2020-23686

Dear Mr. Hale:

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# 845299.

The City of Lakeside (the "city"), which you represent, received a request for seven categories of information related to the city's Flock safety system. The city states it is releasing some of the requested information. The city claims some of the submitted information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception the city claims and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

We note some of the submitted information is subject to section 552.130 of the Government Code.² Section 552.130 provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release.

¹ Although the city also raises section 552.101 of the Government Code, the city has not provided any arguments to support this exception. Therefore, we assume the city has withdrawn its claim this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

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

See Gov't Code § 552.130. Accordingly, the city must withhold all license plate numbers and states of issuance under section 552.130 of the Government Code.³

The city and the sheriff's office assert the remaining information is excepted under section 552.108 of the Government Code, which provides the following:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]

(b) An 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 is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

Gov't Code § 552.108(a)(1), (b)(1). A governmental body raising section 552.108 must explain the applicability of section 552.108. See *id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). A governmental body claiming subsection 552.108(a)(1) or 552.108(b)(1) must explain how and why the release of the requested information would interfere with law enforcement. See *id.* § 552.108(a)(1), (b)(1); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 may be invoked by the proper custodian of information relating to a pending investigation or prosecution of criminal conduct. See Open Records Decision No. 474 at 4-5 (1987). Where a non-law enforcement agency has custody of information that would otherwise qualify for exception under section 552.108 as information relating to the pending case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration the information relates to the pending case and a representation from the law enforcement agency that it wishes to have the information withheld. 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

³ As our ruling is dispositive for this information, we need not address the remaining argument against its disclosure.

failed to indicate why investigative procedures and techniques requested were any different from those commonly known).

The city has provided a statement from the Archer County Sheriff's Office (the "sheriff's office") stating the sheriff's office does "not believe that release of the requested information would interfere unreasonably with any ongoing investigations or prosecutions." Upon review, we find section 552.108(a)(1) is not applicable to the remaining information. Although the sheriff's office generally argues release of any remaining information that "would link particular residents to particular comings and goings" could "be a tool for burglars and stalkers to use to their criminal advantage," we find the remaining information does not identify particular residents. Thus, the sheriff's office has not demonstrated section 552.108(b)(1) is applicable to the remaining information. Therefore, the city may not withhold any of the remaining information under section 552.108 on behalf of the sheriff's office.

In summary, the city must withhold all license plate numbers and states of issuance within the submitted information under section 552.130 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,

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/rm

Ref: ID# 825299

Enc. Submitted documents

c: Requestor
(w/o enclosures)