



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 26, 2020

Ms. Amy L. Sims
Deputy City Attorney
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457

OR2020-26768

Dear Ms. Sims:

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# 850486 (File No. 2869).

The City of Lubbock (the "city") received a request for information pertaining to unmarked vehicles used by the city's police department. You claim some of the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

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

¹ Although the city also cites sections 552.101 and 552.136 of the Government Code in its brief, the city has not provided any arguments to support these exceptions. Therefore, we assume the city has withdrawn its claim these sections apply to the submitted information. *See* Gov't Code §§ 552.301, .302.

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 city states portions of the submitted information, if released, would interfere with law enforcement or prosecution of crime. The city argues release of the information at issue would impair an officer's ability to arrest a suspect and would place individuals at an advantage in confrontations with the police. The city further argues the information at issue reveals certain tactics and procedures used by officers that, if released, would put a potential suspect on notice of how and when an officer would respond. Based on these representations and our review, we agree the release of the information you marked would interfere with law enforcement. Accordingly, the city may withhold the information you marked under section 552.108(b)(1) of the Government Code.

Section 552.130 of the Government Code 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. *See* Gov't Code § 552.130. You seek to withhold portions of the remaining information under section 552.130 of the Government Code. However, we are unable to determine whether the information at issue constitutes actual motor vehicle record information for purposes of section 552.130, or whether it is fictitious motor vehicle record information created as a sample. Therefore, we rule conditionally. To the extent the information we marked constitutes actual motor vehicle record information, the city must withhold the information we marked under section 552.130 of the Government Code. To the extent the information we marked consists of fictitious motor vehicle record information, the city may not withhold it on that ground. In either instance, we find the remaining information you marked does not consist of motor vehicle record information subject to section 552.130 of the Government Code. Therefore, the city may not withhold the remaining information you marked under section 552.130.

In summary, the city may withhold the information you marked under section 552.108(b)(1) of the Government Code. To the extent the information we marked constitutes actual motor vehicle record information, the city must withhold the information we marked 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,

Meagan Hunter
Assistant Attorney General
Open Records Division

MH/eb

Ref: ID# 850486

Enc. Submitted documents

c: Requestor
(w/o enclosures)