



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 10, 2022

Mr. David T. Ritter
Counsel for the City of Van Alstyne
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2022-13380

Dear Mr. Ritter:

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# 946588 (Reference No. 2-18-22).

The Van Alstyne Police Department (the "department"), which you represent, received a request for the body worn camera recording of a meeting involving the requestor. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code.¹ We have considered the claimed exceptions 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. *See* 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)). 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.). To prevail on its claim that section 552.108(b)(1) excepts

¹ Although the department also raises section 552.119 of the Government Code, you provide no arguments explaining how this exception is applicable to the information at issue. Therefore, we assume the department no longer asserts this exception. *See* Gov't Code §§ 552.301, .302.

information from disclosure, a governmental body must do more than merely make a conclusory assertion that releasing the information would interfere with law enforcement. Instead, the governmental body must meet its burden of explaining how and why release of the requested information would interfere with law enforcement and crime prevention. *See* Open Records Decision No. 562 at 10 (1990) (construing statutory predecessor). 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.*, 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).

You represent the submitted information, if released, would interfere with law enforcement. You state the submitted video recording depicts internal, non-public areas of the police department and internal areas of a police vehicle. You assert disclosure of this information may negatively impact officer safety and security. Based upon your representations and our review, we agree the release of some of the submitted information, which we indicated, would interfere with law enforcement. Accordingly, the department may withhold the information we indicated under section 552.108(b)(1) of the Government Code.² However, we find you have failed to demonstrate the release of any of the remaining information at issue would interfere with law enforcement or crime prevention. Therefore, the department may not withhold any of the remaining information at issue under section 552.108(b)(1).

Section 552.130 of the Government Code excepts from public disclosure information relating to a motor vehicle operator's or driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country. *See* Gov't Code § 552.130. We note section 552.130 protects personal privacy. Thus, the requestor has a right of access to his own motor vehicle record information under section 552.023 of the Government Code and it may not be withheld under section 552.130. *See id.* § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). However, because we are unable to determine whether the information at issue belongs to the requestor, we must rule conditionally. Thus, to the extent the visible license plates within the remaining portions of the video recording do not belong to the requestor, the department must withhold this information under section 552.130 of the Government Code. However,

² As our ruling is dispositive, we need not address the remaining argument against disclosure of this information.

to the extent any visible license plate belongs to the requestor, the department must release this information under section 552.023 of the Government Code. Nonetheless, we find you have failed to demonstrate any of the remaining information is subject to section 552.130, and the department may not withhold it on that basis.

In summary, the department may withhold the information we indicated under section 552.108(b)(1) of the Government Code. To the extent the visible license plates within the remaining portions of the video recording do not belong to the requestor, the department must withhold this information under section 552.130 of the Government Code. The department 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,

James M. Graham
Assistant Attorney General
Open Records Division

JMG/be

Ref: ID# 946588

Enc. Submitted documents

c: Requestor
(w/o enclosures)