



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 28, 2022

Ms. Destiney-Ariel Hicks
Assistant City Attorney
City of Fort Worth
200 Texas Street, 3rd Floor
Fort Worth, Texas 76102

OR2022-18531

Dear Ms. Hicks:

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# 955834 (PIR No. P005690).

The City of Fort Worth (the "city") received a request for eleven categories of information regarding automated license plate readers. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code.¹ Additionally, you state release of some of the submitted information may implicate the proprietary interests of Flock Group, Inc. and Vigilant Solutions, LLC. Accordingly, you state, and provide documentation showing, the city notified these interested third parties of the request for information and of their right to submit arguments to this office. *See Gov't Code § 552.305(d); see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered the claimed exceptions and reviewed the submitted information.

Initially, we note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) of the Government Code to submit its reasons, if any, as to why information relating to that party should be

¹ Although you raise section 552.101 of the Government Code in conjunction with section 552.108 of the Government Code, this office has concluded section 552.101 does not encompass other exceptions found in the Act. *See* Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990).

withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from either of the third parties explaining why the information at issue should not be released. Thus, we have no basis to conclude either third party has a protected proprietary interest in the information at issue. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception). Therefore, the city may not withhold the information at issue on the basis of any proprietary interest either third party may have in the 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 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)). 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 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 state Exhibits C and D “reveal police specific law enforcement investigation equipment that would divulge the intricate internal workings of the [c]ity’s [p]olice [d]epartment’s methods, techniques, and strategies for preventing and detecting crime[.]” You assert release of this information “would permit private citizens with criminal intentions to anticipate weaknesses in a police department, avoid detection, jeopardize office safety, and generally undermine police efforts to effectuate the laws of this State.” Based upon your representations and our review, we agree the release of some of the information at issue would interfere with law enforcement. Accordingly, the city may withhold Exhibit C in its entirety and the information we marked in Exhibit D 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 city may not withhold any of the remaining information at issue under section 552.108(b)(1). As no other exceptions to disclosure for the remaining information have been raised, 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,

James M. Graham
Assistant Attorney General
Open Records Division

JMG/eb

Ref: ID# 955834

Enc. Submitted documents

c: Requestor
(w/o enclosures)

cc: 2Third Parties
(w/o enclosures)

² As our ruling is dispositive, we need not address the remaining arguments against disclosure of Exhibit C.