



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 5, 2011

Mr. Mark G. Mann
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046

OR2011-00240

Dear Mr. Mann:

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# 406181 (GCA 10-0815).

The City of Garland (the "city") received a request for any records regarding police response to a specified location, including dispatch records for 2009 to this location and any communication to city council regarding a disturbance at this location. You state that some responsive information has been released. You also state the city is withholding a Texas license plate number under section 552.130 of the Government Code pursuant to Open Records Decision No. 684 (2009).¹ You claim that some of the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions

¹This office issued Open Records Decision No. 684, a previous determination authorizing all governmental bodies to withhold ten categories of information, including Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

raised should apply to information requested). You state the information you have marked in red and the submitted photographs relate to closed criminal cases that did not result in conviction or deferred adjudication. Based on your representation and our review, we find that section 552.108(a)(2) is applicable to the information you have marked in red and the submitted photographs. Thus, the city may withhold this information under section 552.108(a)(2).

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. *Id.* § 552.108(b)(1); *see also* Open Records Decision No. 531 at 2 (1989) (quoting *Ex parte Pruitt*, 551 S.W.2d 706, 710 (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.” *City of Fort Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.). To demonstrate the applicability of this exception, a governmental body must meet its burden of explaining how and why release of the requested information would interfere with law enforcement and crime prevention. Open Records Decision No. 562 at 10 (1990). This office has concluded that section 552.108(b) 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 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.*, ORD 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 that the information you have marked in purple in the special address comment section reveals a potential weakness in the communication abilities of law enforcement, and that release of this information could endanger officers and would interfere with their ability to carry out investigations. Additionally, you claim that release of a security gate code for an apartment complex, which you have also marked in purple, would compromise both the security of the apartment complex and the officers’ safety while conducting investigations at this location. You explain that the gate code was issued by the apartment security department and is not readily available to the public. Based on your representations, we agree that the information you have marked in purple may be withheld under section 552.108(b)(1).

Lastly, section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle title or registration issued by an agency of this state. *See Gov’t*

Code § 552.130(a)(2). We agree the city must withhold the remaining Texas motor vehicle record information you have marked in green, in addition to the information we have marked, under section 552.130.

In summary, the city may withhold the information you have marked in red and the submitted photographs under section 552.108(a)(2) of the Government Code. The information you have marked in purple may be withheld under section 552.108(b)(1) of the Government Code. The city must withhold the remaining information you have marked in green and the information we have marked pursuant to section 552.130 of the Government Code. The remaining information must be released to this requestor.

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 http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Debbie K. Lee
Assistant Attorney General
Open Records Division

DKL/dls

Ref: ID# 406181

Enc. Submitted documents

c: Requestor
(w/o enclosures)