



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 6, 2011

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

OR2011-12829

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# 428894.

The City of Lubbock (the "city") received a request for a specified police report. You claim a portion of the submitted information is excepted from disclosure under sections 552.108 and 552.151 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

Section 552.151 of the Government Code relates to a public employee's safety and provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.151. You inform us the information you have marked under section 552.151 relates to an undercover police officer. You assert release of the undercover officer's name and other identifying information "could cause this particular officer to face a threat of imminent physical danger." Based on your representations and our review, we

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<sup>1</sup>Although you also raise section 552.101 of the Government Code, you do not provide arguments explaining the applicability of this section to the information at issue; therefore, we assume the city is no longer asserting this section. See Gov't Code § 552.301(e)(1)(A) (governmental body must explain applicability of raised exception).

conclude you have demonstrated the release of the undercover officer's name, which we have marked, would subject the officer to a substantial threat of physical harm. Therefore, the city must withhold this information under section 552.151 of the Government Code.<sup>2</sup> We note the remaining information you have marked does not identify the officer at issue. Accordingly, we find you have failed to demonstrate the release of the remaining information would subject the officer to a substantial threat of physical harm. Therefore, we conclude section 552.151 is inapplicable to the remaining information, and the city may not withhold it on that basis.

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). 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 Ft. 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 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 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 the remaining information you have marked reveals the identity of the undercover city police officer. As noted above, none of the information at issue identifies the officer at issue. Upon review, we find the city has failed to demonstrate release of the remaining information you have marked would interfere with law enforcement and crime prevention. Therefore, the city may not withhold any of the remaining information under section 552.108(b)(1).

We note a portion of the remaining information is subject to section 552.130 of the Government Code.<sup>3</sup> Section 552.130 provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by an agency

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

<sup>3</sup>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).

of this state, another state, or country is excepted from public release. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130). Accordingly, the city must withhold the information we have marked under section 552.130 of the Government Code.<sup>4</sup>

In summary, the city may withhold the information we have marked under section 552.151 of the Government Code. The city must withhold the information we have marked under section 552.130 of the Government Code. The city must release the remaining information.<sup>5</sup>

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](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,



Mack T. Harrison  
Assistant Attorney General  
Open Records Division

MTH/em

Ref: ID# 428894

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>4</sup>We note this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

<sup>5</sup>We note the information being released contains social security numbers. Section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).