



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 3, 2012

Ms. Cary Grace  
Assistant City Attorney  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767

OR2012-00053

Dear Ms. Grace:

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# 441052.

The City of Austin (the "city") received a request for all Take-Home Vehicle Authorization forms, including attachments, for the 2011 fiscal year and any records pertaining to specified city employees. You state that most of the requested information will be released. You inform us the city will redact home addresses subject to section 552.117(a)(2) of the Government Code pursuant to Open Records Decision No. 670 (2001).<sup>1</sup> In addition, you state the city will redact Texas license plate numbers under section 552.130 of the Government Code pursuant to Open Records Decision No. 684 (2009).<sup>2</sup> You claim that portions of the submitted information are excepted from disclosure under sections 552.108

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<sup>1</sup>Open Records Decision No. 670 authorizes all governmental bodies to withhold the current and former home addresses and telephone numbers, personal cellular telephone and pager numbers, social security numbers, and family member information of peace officers under section 552.117(a)(2) of the Government Code without the necessity of requesting an attorney general decision. *See* ORD 670 at 6.

<sup>2</sup>Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold ten categories of information without the necessity of requesting an attorney general decision, including a Texas license plate number, under section 552.130 of the Government Code. *See* ORD 684.

and 552.152 of the Government Code.<sup>3</sup> We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(b) excepts from disclosure “[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution . . . if (1) release of the internal record or notation would interfere with law enforcement or prosecution[.]” Gov’t Code § 552.108(b)(1). This section 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, 327 (Tex. App.—Austin 2002, no pet.). This office has concluded this provision protects certain kinds of information, the disclosure of which might compromise the security or operations of a law enforcement agency. *See, e.g.*, Open Records Decision Nos. 531 (1989) (detailed guidelines regarding police department’s use of force policy), 508 (1988) (information relating to future transfers of prisoners), 413 (1984) (sketch showing security measures for forthcoming execution). To claim this aspect of section 552.108 protection, however, 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). Further, commonly known policies and techniques may not be withheld under section 552.108. *See, e.g.*, Open Records Decision Nos. 531 at 2-3 (1989) (Penal Code provisions, common-law rules, and constitutional limitations on use of force are not protected under section 552.108), 252 at 3 (1980) (governmental body did not meet burden because it did not indicate why investigative procedures and techniques requested were any different from those commonly known with law enforcement and crime prevention). To prevail on its claim that section 552.108(b)(1) excepts information from disclosure, a law-enforcement agency must do more than merely make a conclusory assertion that releasing the information would interfere with law enforcement. The determination of whether the release of particular records would interfere with law enforcement is made on a case-by-case basis. Open Records Decision No. 409 at 2 (1984).

You seek to withhold the call signs, employee numbers, job assignments, and names of officers from the Organized Crime Division of the city’s police department. You state these officers “routinely work in undercover capacities when working cases.” You also state that release of the information at issue “would aide members of the public in determining the identities of the officers[.]” Based on your representations and our review, we find you have

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<sup>3</sup>Although you raise section 552.151 of the Government Code, we note the 82nd Texas Legislature renumbered section 552.151 to section 552.152 of the Government Code. *See* Act of May 9, 2011, 82nd Leg., R.S., S.B. 1303, § 27.001(20).

established that release of the information at issue would interfere with law enforcement. Thus, the city may withhold the information you have marked under section 552.108(b)(1).<sup>4</sup>

We note the remaining information contains driver's license numbers subject to section 552.130(a)(1) of the Government Code.<sup>5</sup> Section 552.130(a)(1) provides that information relating to a motor vehicle operator's or driver's license or permit issued by any agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a)(1). Accordingly, the city must withhold the driver's license numbers we have 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. The city must withhold the driver's license numbers we marked under section 552.130 of the Government Code. The remaining information must be released.

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,



Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/ag

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<sup>4</sup>As our ruling for this information is dispositive, we do not address your remaining argument against its disclosure.

<sup>5</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).

Ref: ID# 441052

Enc. Submitted documents

c: Requestor  
(w/o enclosures)