



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 31, 2013

Mr. Steven E. Meyer  
Assistant City Attorney  
Legal Division  
Arlington Police Department  
P.O. Box 1065, Mail Stop 04-0200  
Austin, Texas 76004-1065

OR2013-09065

Dear Mr. Meyer:

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# 488826 (Arlington PD Ref. No. 10786).

The Arlington Police Department (the "department") received a request for a specified report involving the requestor's spouse. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also considered comments received from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.108(b)(1) of the Government Code 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 . . . release of the internal record or notation would interfere with law enforcement or prosecution[.]" *Id.* § 552.108(b)(1); *see City of Fort Worth v. Cornyn*, 86 S.W.3d at 327 (Gov't Code § 552.108(b)(1) protects information that, if released, would permit private citizens to anticipate weaknesses in police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate state laws). The statutory predecessor to section 552.108(b)(1) protected information that would reveal law enforcement techniques. *See, e.g.*, Open Records Decision Nos. 531 (1989) (detailed use of force guidelines), 456 (1987) (information regarding

location of off-duty police officers), 413 (1984) (sketch showing security measures to be used at next execution). The statutory predecessor to section 552.108(b)(1) was not applicable to generally known policies and procedures. *See e.g.* Open Records Decision Nos. 531 at 2-3 (Penal Code provisions, common-law rules, and constitutional limitations on use of force not protected), 252 at 3 (1980) (governmental body failed to indicate why investigative procedures and techniques requested were any different from those commonly known).

You seek to withhold the submitted report, including the identity of an undercover officer, under section 552.108(b)(1) of the Government Code. You contend release of the submitted information would interfere with law enforcement and crime prevention because it would reveal the officer's sensitive assignments and law enforcement methods and techniques, and strategies, which would greatly compromise the security or operations of the department.

We note, however, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177, 186-88 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), and includes the names of the investigating officers. *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). In this instance, the undercover officer was an investigating officer involved in the incident at issue in the submitted information. Thus, the department may not withhold the officer's information under section 552.108(b)(1) of the Government Code. Furthermore, we find you have failed to demonstrate how release of any of the remaining information would interfere with law enforcement or prosecution. Thus, we find you have failed to demonstrate the applicability of section 552.108(b)(1) of the Government Code, and none of the submitted may be withheld on this basis.

Section 552.152 of the Government Code provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from [required public disclosure] 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 § 552.152.<sup>1</sup> You indicate the release of the undercover officer's identity would subject the officer to a substantial threat of physical harm. Therefore, we find

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<sup>1</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. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

section 552.152 is applicable to the marked information. Accordingly, we conclude the department must withhold the officer's information, which we have marked, under section 552.152 of the Government Code. As you raise no further exception to disclosure, the remaining information must be released.<sup>2</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,



Kathleen J. Santos  
Assistant Attorney General  
Open Records Division

KJS/bhf

Ref: ID# 488826

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We note the requestor has a special right of access to some of the information being released in this instance. See Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates, or that person's representative, solely on grounds that information is considered confidential by privacy principles). Because such information is confidential with respect to the general public, if the department receives another request for this information from a different requestor, then the department should again seek a ruling from this office.