



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 9, 2013

Ms. Michelle M. Kretz  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, 3<sup>rd</sup> Floor  
Fort Worth, Texas 76102

OR2013-04493A

Dear Ms. Kretz:

This office issued Open Records Letter No. 2013-04493 (2013) on March 19, 2013. Since that date, we have received new information that affects the facts on which the ruling was based. Consequently, this decision serves as the corrected ruling and is a substitute for the decision issued on March 19, 2013. *See generally* Gov't Code § 552.011 (providing that Office of Attorney General may issue decision to maintain uniformity in application, operation, and interpretation of Public Information Act ("Act")). This ruling was assigned ID# 488962 (Fort Worth PIR No. W022704).

The Fort Worth Police Department (the "department") received a request for all license plate data acquired via automatic license plate recognition or equivalent technology during a specified time period. You claim the requested information is excepted from disclosure under sections 552.101, 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

You inform us some of the requested information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2012-16496

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<sup>1</sup>We assume the "representative sample" of information submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(2012). In that ruling, we determined the department may withhold license plate reader reports and a law enforcement officer's cellular telephone number under section 552.108(b)(1) of the Government Code and release the remaining information. We have no indication the law, facts, and circumstances on which the prior ruling was based have changed. Accordingly, for the information in the current request that is identical to the information previously requested and ruled upon by this office, we conclude the department must continue to rely on Open Records Letter No. 2012-16496 as a previous determination and withhold or release that information in accordance with that ruling. *See* Open Records Decision No. 673 at 7-8 (2001). To the extent the requested information is not encompassed by the previous ruling, we will address your arguments against its release.

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[.]” Gov’t Code § 552.108(b)(1). 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.). A governmental body claiming section 552.108(b)(1) must explain how and why release of the information at issue would interfere with law enforcement and crime prevention. *See* Open Records Decision No. 562 at 10 (1990). The statutory predecessor to section 552.108(b)(1) protected information that would reveal law enforcement techniques, but was not applicable to generally known policies and procedures. *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); *but see* 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), 143 (1976) (disclosure of specific operations or specialized equipment directly related to investigation or detection of crime may be excepted). In Open Records Decision No. 506 (1988), this office determined the statutory predecessor to section 552.108(b) excepted from disclosure “cellular mobile phone numbers assigned to [governmental body] officials and employees with specific law enforcement responsibilities.” ORD 506 at 2. We noted the purpose of the cellular telephones was to ensure immediate access to individuals with specific law enforcement responsibilities and to ensure public access to these numbers could interfere with that purpose. *Id.*

You seek to withhold some of the submitted information under section 552.108(b)(1). You state the information relates to security equipment used by the police for the purpose of preventing, detecting, or investigating a criminal act. You inform us the information at issue reveals specific law enforcement investigation equipment that police use during possible

terroristic attacks and emergency and life-threatening events. You argue release of the information would divulge the "intricate internal workings of the [department's] methods, techniques, and strategies for preventing and detecting crime[.]" We understand you seek to withhold the cellular telephone number of a law enforcement officer under section 552.108(b)(1). We understand you to assert release of the cellular telephone number of a law enforcement officer would interfere with the officer's ability to perform his responsibilities. Based on your representations and our review of the information at issue, we conclude the department may withhold the submitted license plate reader report and cellular telephone number under section 552.108(b)(1) of the Government Code.<sup>2</sup> The department 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 [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,



Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/tch

Ref: ID# 488962

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>As our ruling is dispositive with respect to the information at issue, we need not address your remaining arguments under section 552.101 of the Government Code in conjunction with sections 418.177 and 418.181 of the Government Code against disclosure of the information in Exhibit C2.