



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 18, 2014

Ms. Mary Kay Fischer  
City Attorney  
City of Angleton  
121 South Velasco  
Angleton, Texas 77515

OR2014-20947

Dear Ms. Fischer:

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# 543848.

The City of Angleton (the "city") received a request for information pertaining to the following: (1) vehicles of the city's police department (the "department"), excluding vehicles used by undercover officers; (2) firearms, body armor, vehicles, and ammunition used in field operations that the city has acquired since 2004; and (3) equipment owned or maintained for use in special weapons and tactics operations or activities.<sup>1</sup> The city claims the requested information is excepted from disclosure under sections 552.101, 552.108, and 552.152 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Section 552.108(b) 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 (1) release of the internal record or

---

<sup>1</sup>The city sought and received clarification of the information requested. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

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 at 3-4 (1989) (detailed guidelines regarding police department’s use of force policy), 508 at 3-4 (1988) (information relating to future transfers of prisoners), 413 (1984) (sketch showing security measures for forthcoming execution). However, to claim this aspect of section 552.108 protection a governmental body must meet its burden of explaining how and why release of the information at issue 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 (former section 552.108 does not protect Penal Code provisions, common-law rules, and constitutional limitations on use of force), 252 at 3 (1980) (governmental body did not meet burden because it did not indicate why investigative procedures and techniques submitted 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).

The submitted information consists of the following: (1) a list of the make, model, and year of department vehicles that are not used in undercover operations and the years the vehicles were acquired; (2) an invoice for the purchase of ammunition; and (3) a list of special operations team equipment. The city asserts release of the list of vehicles and equipment would interfere with the department’s ability to effectively respond to criminal activity and limit its crime prevention abilities. It also asserts release of this information would allow a person to know the performance capabilities of the department and determine the size of specialized teams, thereby developing tactics to defeat the mission of law enforcement. Upon review, we find the release of some of the submitted information would interfere with law enforcement. Therefore, the city may withhold this information, which we have marked, under section 552.108(b)(1) of the Government Code.<sup>2</sup> However, we conclude the city has not established the release of the remaining information would interfere with law enforcement. Therefore, the city may not withhold any of the remaining information under section 552.108(b)(1).

---

<sup>2</sup>As our ruling is dispositive, we do not address your other arguments to withhold this information.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information protected by other statutes, including section 418.181 of the Government Code, which was added to chapter 418 of the Government Code as part of the Texas Homeland Security Act. Section 418.181 provides, “Those documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism.” The fact that information may generally be related to a governmental body’s security concerns or emergency preparedness does not make the information *per se* confidential under section 418.181. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). Furthermore, the mere recitation by a governmental body of a statute’s key terms is not sufficient to demonstrate the applicability of a claimed provision. As with any confidentiality provision, a governmental body asserting section 418.181 must adequately explain how the responsive information falls within the scope of the statute. *See* Gov’t Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

The city asserts the remaining information is confidential under section 418.181 because it reveals what equipment the department has in its possession and, if released to the wrong individuals, “it could have catastrophic effects on critical infrastructure and the ability of the [c]ity’s first responders to effectively respond and mitigate these types of criminal and terrorist threats.” However, we conclude you have failed to demonstrate how any of the remaining information reveals technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Thus, the remaining information is not confidential under section 418.181, and the city may not withhold it under section 552.101 of the Government Code on that ground.

You seek to withhold the remaining information under section 552.152 of the Government Code, which provides the following:

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.

*Id.* § 552.152. You assert the remaining information is confidential under section 552.152 because its release “would allow the public to learn how to out-weapon, out-run, and out-perform [the department]’s officers and place their lives and those of other employees, i.e. first responders in danger of being harmed or killed.” However, upon review we find the city has not demonstrated release of the remaining information would subject a city employee or

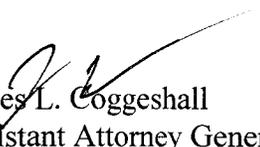
officer to a substantial threat of physical harm. Therefore, the city may not withhold any of the remaining information under section 552.152.

To conclude, the city may withhold the information we have marked under section 552.108(b)(1) of the Government Code. The city 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/cbz

Ref: ID# 543848

Enc. Submitted documents

c: Requestor  
(w/o enclosures)