



January 5, 2015

Mr. Daniel Ortiz
Assistant City Attorney
Office of the City Attorney
The City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890

OR2015-00070

Dear Mr. Ortiz:

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# 548930 (El Paso Ref. 14-1026-4836).

The City of El Paso (the "city") received a request for (1) the total number of employees in each job title organized by department and (2) the department, year, make, and model of each city-owned vehicle. You state the city has provided most of the requested information to the requestor. You claim a portion of 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.

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." *City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.). To prevail on its claim that subsection 552.108(b)(1) excepts information from disclosure, a governmental body must do more than merely make a conclusory assertion that releasing the information would interfere with law enforcement. Instead, the governmental body must meet its burden of explaining how and why release of

the requested information would interfere with law enforcement and crime prevention. *See* Open Records Decision No. 562 at 10 (1990) (construing statutory predecessor). This office has concluded that section 552.108(b) excepts from public disclosure information relating to the security or operation of a law enforcement agency. *See, e.g.*, Open Records Decision Nos. 531 (1989) (release of detailed use of force guidelines would unduly interfere with law enforcement), 252 (1980) (section 552.108 of the Government Code 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).

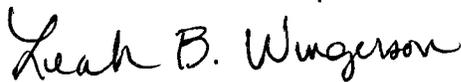
You seek to withhold the city's entire inventory list of vehicles for the city's police department and fire department. You inform us some of the vehicles in the list are unmarked units used by undercover police officers and the fire marshal for the investigation and detection of crimes. You contend disclosure of any of this information would interfere with law enforcement and crime prevention because release would provide a checklist against which suspected undercover vehicles could be compared to determine whether or not they are undercover vehicles. Based on your arguments and our review of the information at issue, we find release of the information pertaining to undercover vehicles would interfere with law enforcement. Accordingly, the city may withhold that information under section 552.108(b)(1) of the Government Code. However, we find you have not demonstrated how release of the remaining information would interfere with law enforcement. Consequently, the city may not withhold any of the remaining information under section 552.108(b)(1) of the Government Code.

Section 552.108(a)(1) of the Government Code excepts from disclosure "[I]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You generally assert the remaining information pertaining to police and fire department vehicles is excepted under section 552.108(a)(1) for the same reasons stated above. Upon review, we find you have not demonstrated how release of the remaining information would interfere with the detection, investigation, or prosecution of crime. Consequently, the city may not withhold any part of the remaining information under section 552.108(a)(1) of the Government Code. As you have not claimed any other exceptions to disclosure, 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, 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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/bhf

Ref: ID# 548930

Enc. Submitted documents

c: Requestor
(w/o enclosures)