



January 12, 2015

Ms. Molly Cost  
Assistant General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR2015-00527

Dear Ms. Cost:

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# 549685 (PIR No. 14-4164).

The Texas Department of Public Safety (the "department") received a request for information pertaining to sole-source, non-compete contracts with the department during a specified time period.<sup>1</sup> You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You seek to withhold portions of the submitted information pursuant to section 552.152 of the Government Code. Section 552.152 provides:

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

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<sup>1</sup>We note the department sought and received clarification of the information requested. See Gov't Code § 552.222 (providing 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) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

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. You state the information at issue reveals the location of the Governor's travel and the name of a security company hired by the department to protect the Governor and his family while abroad. You contend releasing this information would subject the Governor, his family, and members of the security company to a substantial threat of physical harm. You further argue the release of the information at issue would "allow an individual to detect patterns in travel and travel arrangements [of the Governor and his family] and thereby endanger the lives of the protective agents and the individuals they are assigned to protect." In *Tex. Dep't of Pub. Safety v. Cox Tex. Newspapers, LP. & Hearst Newspapers, LLC*, 343 S.W.3d 112, 119 (Tex. 2011), the supreme court stated "deference must be afforded to [department] officers and other law enforcement experts regarding the probability of harm, although vague assertion of risk will not carry the day." Thus, in this instance and when analyzing the probability of harm, this office must defer to the representations of the entity charged with protecting the Governor and his family from physical harm. Therefore, based on your representations and our review, we find you have demonstrated release of the name of the security company and the location of travel would subject the Governor to a substantial threat of physical harm. Accordingly, the department must withhold the information we have marked under section 552.152 of the Government Code.<sup>2</sup>

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); 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).

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

You contend release of some of the information you have marked “would provide wrongdoers, drug traffickers, terrorists, and other criminals with invaluable information concerning specialized electronic surveillance equipment utilized by the [d]epartment in the investigation and detection of crime[.]” You further argue release of this information would “jeopardize the future use of this specialized equipment . . . [, thereby compromising] investigative efforts and [allowing] criminals to employ techniques to defeat or detect this equipment, rendering it ineffective.” Likewise, you contend release of the remaining information you have marked would provide criminals with “invaluable information concerning specialized equipment used by [d]epartment tactical teams and law enforcement officers to help plan [for] and resolve potentially dangerous situations.” Further, you argue disclosure of this information would reveal the department’s capabilities, “which in turn could pose a safety concern for [department] officers and the public.” Upon review, we find you have demonstrated release of some of the information at issue would interfere with law enforcement. Accordingly, the department may withhold the information we have marked under section 552.108(b)(1) of the Government Code. However, the department has failed to demonstrate how release of the remaining information would interfere with law enforcement, and the department may not withhold it under section 552.108(b)(1).

In summary, the department must withhold the information we have marked under section 552.152 of the Government Code. The department may withhold the information we have marked under section 552.108(b)(1) of the Government Code. 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.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,



Lee Seidlits  
Assistant Attorney General  
Open Records Division

CLS/som

Ref: ID# 549685

Enc. Submitted documents

c: Requestor  
(w/o enclosures)