



January 26, 2015

Ms. Christina Weber  
Assistant City Attorney  
Office of the City Attorney  
City of Arlington  
P.O. Box 90231  
Arlington, Texas 76004-3231

OR2015-01484

Dear Ms. Weber:

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# 551853 (Arlington PIR No. W017900-110614).

The City of Arlington (the "city") received a request for all documents, memoranda, and correspondence between state and local enforcement agencies referring to cellular signal interception devices. You inform us the city will release some of the requested information upon the requestor's response to a cost estimate. 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.

Initially, you state some of the requested information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2014-22848 (2014). In that ruling, we determined (1) the city may withhold the information we marked under section 552.108(b)(1) of the Government Code; (2) the city must withhold the cellular telephone number we marked under section 552.117(a)(2) of the Government Code, if a governmental body did not pay for the cellular telephone service; and (3) the city must release the remaining information. There is no indication the law, facts, or circumstances on which the prior ruling was based have changed. Thus, to the extent the requested information is identical to the information previously requested and ruled upon by this office in the prior ruling, the city may continue to rely on Open Records Letter No. 2014-22848 as

a previous determination and withhold or release the previously ruled upon information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). We will address your arguments for the information not subject to Open Records Letter No. 2014-22848.

Section 552.108(b) 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 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).

You state the submitted information relates to how the city’s police department (the “department”) investigates and detects possible criminal activity. You also inform us the submitted information includes the names of undercover department officers. You assert release of the submitted information could put the officers’ lives at risk and potentially destroy department operations. Thus, you claim release of the submitted information would hinder law enforcement and put the public at risk. 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. However, we conclude you have 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).

In summary, the city may continue to rely on Open Records Letter No. 2014-22848 as a previous determination and withhold or release the previously ruled upon information in accordance with that ruling. 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,



Lauren Dahlstein  
Assistant Attorney General  
Open Records Division

LMD/som

Ref: ID# 551853

Enc. Submitted documents

c: Requestor  
(w/o enclosures)