



January 30, 2015

Ms. P. Armstrong
Assistant City Attorney
Criminal Law and Police Section
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2015-01927

Dear Ms. Armstrong:

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# 551996 (DPD ORR# 2014-8426).

The Dallas Police Department (the "department") received a request for the guidelines related to the use of distraction devices. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

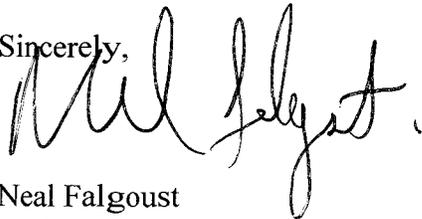
Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the common-law physical safety exception. We understand you to argue the submitted information is excepted from required disclosure under section 552.101 of the Government Code in conjunction with the common-law physical safety exception. See *Tex. Dep't of Pub. Safety v. Cox Tex. Newspapers, L.P.*, 343 S.W.3d 112 (Tex. 2011) (holding "freedom from physical harm is an independent interest protected under law, untethered to the right of privacy"). Pursuant to this common-law physical safety exception, "information may be withheld [from public release] if disclosure would create a substantial threat of physical harm." *Id.* In applying this standard, the Texas Supreme Court noted "deference must

You state the submitted information could be used by criminal suspects to combat police tactics in high-risk arrest situations. You argue criminal suspects could use this information to counteract or lessen the effectiveness of diversionary devices and the tactics used by police, jeopardizing the safety of arresting officers. Upon review, we find the release of the information we marked would create a substantial risk of physical harm for the officers. Accordingly, the department must withhold the information we marked under section 552.101 of the Government Code in conjunction with the common-law physical safety exception. However, the department has not demonstrated how release of the remaining information would create a substantial risk of physical harm, and the department may not withhold that information under section 552.101 of the Government Code. As you raise no other exceptions to disclosure, 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, 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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/bhf

Ref: ID# 551996

Enc. Submitted documents

c: Requestor
(w/o enclosures)