



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 23, 2015

Mr. Guillermo Trevino  
Assistant City Attorney  
City of Fort Worth  
Office of the City Attorney  
1000 Throckmorton Street, 3rd Floor  
Fort Worth, Texas 76102-6311

OR2015-12382

Dear Mr. Trevino:

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# 568110 (PIR No. W041602).

The City of Fort Worth (the "city") received a request for information pertaining to a specified search warrant and a specified police report. You state the city has released some of the requested information. We understand you have redacted some information pursuant to sections 552.130(c) and 552.147(b) of the Government Code, as well as pursuant to Open Records Decision No. 684 (2009).<sup>1</sup> You claim the submitted information is excepted from disclosure under sections 552.108, 552.136, and 552.152 of the Government Code.<sup>2</sup> We have considered the exceptions you claim and reviewed the submitted information.

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<sup>1</sup>Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. *Id.* § 552.147(b). Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including an e-mail address of a member of the public, under section 552.137 of the Government Code, without the necessity of requesting an attorney general opinion.

<sup>2</sup>Although you do not raise section 552.136 in your brief to this office, we understand you to raise this section based on your markings.

You seek to withhold some of the submitted information under 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 [required public disclosure] 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.

Gov't Code § 552.152. You assert the release of the information you have marked would subject undercover officers to a substantial threat of physical harm. Upon review, we find section 552.152 is applicable to the identifying information of the undercover officers. Accordingly, the city must withhold the identifying information of the undercover officers, which we have marked, under section 552.152 of the Government Code.<sup>3</sup> However, we find you have not demonstrated the release of any of the remaining information at issue would subject an employee of the city to a substantial threat of physical harm. Thus, the city may not withhold the remaining information you marked under section 552.152 of the Government Code.

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[.]” *Id.* § 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). The determination of whether the release of particular records would interfere with law enforcement is made on

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<sup>3</sup>As our ruling on this information is dispositive, we need not address your remaining argument for this information.

a case-by-case basis. Open Records Decision No. 409 at 2 (1984). Upon review, we find the city has not demonstrated how release of the any of remaining information you seek to withhold would interfere with law enforcement or crime prevention. Therefore, the city may not withhold any of this information under section 552.108(b)(1) of the Government Code.

Section 552.136 of the Government Code states “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). Upon review, we find the city must withhold the information we have marked under section 552.136 of the Government Code. However, we find none of the remaining information is subject to section 552.136 of the Government Code. Accordingly, the city may not withhold any of the remaining information on that basis.

In summary, the city must withhold the information we have marked under sections 552.136 and 552.152 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,



Sean Nottingham  
Assistant Attorney General  
Open Records Division

SN/cbz

Ref: ID# 568110

Enc. Submitted documents

c: Requestor  
(w/o enclosures)