



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 4, 2009

Mr. Marc J. Schnall
Langley & Banack, Inc.
Trinity Plaza II
745 East Mulberry, Suite 900
San Antonio, Texas 78212-3166

OR2009-05910

Dear Mr. Schnall:

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# 341788.

The City of Hill Country Village (the "city"), which you represent, received a request for report number 09-0074 and all witness statements. You claim that portions of the submitted information are excepted from disclosure under sections 552.108, 552.117, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You raise section 552.108 of the Government Code for some of the submitted information. Section 552.108(a) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a). Generally, a governmental body claiming section 552.108 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)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the information you have marked relates to an active criminal investigation by the city police department. Based upon this representation and our review, we conclude that the release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d. Thus, we agree that the city may withhold the information you have marked under section 552.108(a)(1) of the Government Code.

Section 552.117(a)(2) excepts from disclosure the home address and telephone number, social security number, and family member information of a peace officer, regardless of whether the peace officer made an election under sections 552.024 or 552.1175 of the

Government Code. Gov't Code § 552.117(a)(2). Section 552.117(a)(2) adopts the definition of peace officer found in article 2.12 of the Code of Criminal Procedure. We note that section 552.117(a)(2) of the Government Code is applicable to a peace officer's cellular telephone number only if the cellular telephone service is paid for by the officer with his or her own funds. *See* Open Records Decision No. 670 at 6 (2001). You indicate that the officer whose information is at issue is a peace officer under article 2.12 of the Code of Criminal Procedure. However, it is unclear whether the cellular telephone service for the number at issue was paid for by the peace officer for his personal use or by the department for official use. Therefore, the city must withhold the corresponding cellular telephone number under section 552.117(a)(2) only if the peace officer at issue paid for his cellular telephone service.

Section 552.130 excepts from disclosure information that relates to a driver's license or motor vehicle title or registration issued by an agency of this state. *Id.* § 552.130. Accordingly, the city must withhold the Texas motor vehicle record information you have marked under section 552.130.

In summary, the city may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The city must withhold the cellular telephone number you have marked under section 552.117(a)(2) of the Government Code if the peace officer at issue paid for his cellular telephone service. The Texas motor vehicle record information you have marked must be withheld under section 552.130 of the Government Code. The remaining information must be released.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/jb

Ref: ID# 341788

Enc. Submitted documents

c: Requestor
(w/o enclosures)