



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 6, 2012

Ms. Andrea M. Gardner
City Manager
City of Copperas Cove
P.O. Drawer 1449
Copperas Cove, Texas 76522

OR2012-08640

Dear Ms. Gardner:

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# 455863.

The City of Copperas Cove (the "city") received a request for three specified reports and reports from a specified date and address. You claim that the submitted information is excepted from disclosure under sections 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have only submitted one of the requested reports to this office. Thus, to the extent additional responsive information existed and was maintained by the city on the date the city received the request for information, we presume the city has released it. If not, the city must do so at this time. *See* Gov't Code §§ 552.301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to the requested information, it must release the information as soon as possible).

You raise section 552.108(a)(1) of the Government Code for the submitted information, which excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). 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). We note section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. *See*

Open Records Decision No. 372 (1983) (statutory predecessor to section 552.108 may be invoked by any proper custodian of law enforcement information).

You state the submitted case “has been cleared by exception by the Copperas Cove Police Department.” You further state the case at issue contains a report from the Killeen Police Department, and you are “unaware if the case has been resolved with the Bell County District Court.” However, you have not provided our office with any representation to indicate the Copperas Cove Police Department, Killeen Police Department, or the Bell County District Attorney’s Office wishes to withhold the information at issue. You have also not explained, and the information at issue does not reveal, how the submitted information pertains to an ongoing criminal investigation or prosecution, nor have you explained how its release would interfere in some way with the detection, investigation, or prosecution of crime. Therefore, the city may not withhold the submitted information under section 552.108(a)(1) of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or another state or country and information related to a motor vehicle title or registration issued by an agency of this state or another state or country. Gov’t Code § 552.130(a)(1)-(2). We note, however, that section 552.130 protects personal privacy, and one of the driver’s license numbers you have marked belongs to the requestor. Accordingly, the requestor has a right of access to this information under section 552.023 of the Government Code, and the city may not withhold it in this instance. *See id.* § 552.023(b). Section 552.130 also does not except a driver’s license issuing state. Upon review, we find the city must withhold the information we have marked under section 552.130 of the Government Code. However, none of the remaining information may be withheld under section 552.130.

We note the remaining information contains e-mail addresses that are subject to section 552.137 of the Government Code.¹ Section 552.137 excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See id.* § 552.137(a)-(c). The e-mail addresses at issue are not excluded by subsection (c). Therefore, the city must withhold the personal e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners have affirmatively consented to their public disclosure.²

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²We note Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including e-mail addresses of members of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

Section 552.147 of the Government Code excepts from disclosure the social security number of a living person. *Id.* § 552.147. You state the city will withhold the social security number you have marked in the remaining information pursuant to section 552.147(b), which 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). However, we note the social security number you have marked belongs to the requestor. Section 552.147 protects personal privacy. As noted above, this requestor has a right of access to her own information that would otherwise be confidential under privacy principles. Therefore, the city may not withhold the requestor's social security number from her on this basis. *See id.* § 552.023. However, you may withhold the social security number in the remaining information that does not belong to the requestor under section 552.147.

In summary, the city must withhold the information we have marked under sections 552.130 of the Government Code and the personal e-mail addresses we have marked under 552.137 of the Government Code, unless the owners have affirmatively consented to their public disclosure. The city may withhold the social security number in the remaining information that does not belong to the requestor under section 552.147 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, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Casterline", with a stylized flourish at the end.

Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/som

Ref: ID# 455863

Enc. Submitted documents

c: Requestor
(w/o enclosures)