



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 10, 2012

Ms. Michelle L. Villarreal
Assistant City Attorney
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

OR2012-12627

Dear Ms. Villarreal:

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# 465581 (City of Waco Reference Nos. LGL-12-1028 and LGL-12-1009).

The City of Waco (the "city") received three requests from two requestors for information pertaining to a specified accident. You indicate you have released some of the requested information. You claim some of 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.

Section 552.108 of the Government Code 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). You state the information you have marked pertains to an open and pending criminal investigation and release of this information would interfere with the detection, investigation, and prosecution of a crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559

(Tex. 1976). Based on your representation and our review, we conclude the city may withhold the information you have marked under section 552.108(a)(1) of the Government Code. However, we note you marked additional information under section 552.108 in the documents submitted in the second request, City Reference Number LGL-12-1009. Section 552.007 of the Government Code provides if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure unless its public release is expressly prohibited by law or the information is confidential by law. *See* Gov't Code § 552.007; Open Records Decision No. 518 at 3 (1989); *see also* Open Records Decision No. 400 (1983) (governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). Accordingly, pursuant to section 552.007, the city may not withhold the additionally marked information unless its release is expressly prohibited by law or the information is confidential by law and section 552.108 does not prohibit the release of information or make information confidential. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 (1977) (statutory predecessor to section 552.108 subject to waiver). Accordingly, the city may only withhold the information marked under section 552.108(a)(1) in accordance with the markings in City Reference Number LGL-12-1028.

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. Gov't Code § 552.130(a)(1). Upon review, the city must withhold information marked under section 552.130 of the Government Code.

Section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. *Id.* § 552.147(a). Therefore, the city may withhold the social security numbers you have marked under section 552.147(a).

In summary, the city may withhold the information you have marked under section 552.108(a)(1) of the Government Code in accordance with the documents as marked in City Reference Number LGL-12-1028. The city must withhold the information marked under section 552.130 of the Government Code. The city may withhold the social security numbers you have marked under section 552.147 of the Government Code. The city must release the remaining information in accordance with the documents submitted in City Reference Number LGL-12-1028.

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 cursive script that reads "Paigelay".

Paige Lay
Assistant Attorney General
Open Records Division

PL/tch

Ref: ID# 465581

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)