



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 22, 2013

Ms. Angela Hahn  
Records Coordinator  
City of Brenham  
P.O. Box 1059  
Brenham, Texas 77834-1059

OR2013-08550

Dear Ms. Hahn:

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# 488070.

The City of Brenham (the "city") received a request for information pertaining to a specified incident. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108 of the Government Code provides, in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]

...

(b) An 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 is excepted from [required public disclosure] if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

Gov't Code § 552.108(a)(1), (b)(1). Subsection 552.108(a)(1) protects information if its release would interfere with a particular pending criminal investigation or prosecution. Subsection 552.108(b)(1) protects internal law enforcement and prosecution records, the release of which would interfere with law enforcement and prosecution efforts in general. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.) (section 552.108(b)(1) protects information that if released would permit private citizens to anticipate weaknesses in police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate state laws). A governmental body claiming an exception under section 552.108 must reasonably explain how and why the exception it claims is applicable to the information the governmental body seeks to withhold. *See Gov't Code § 552.301(e)(1)(A)*; *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You do not inform us the submitted information relates to an open or pending criminal investigation. Thus, we find you have failed to demonstrate the release of the submitted information would interfere with a particular pending investigation. Accordingly, the city may not withhold any of the submitted information under section 552.108(a)(1) of the Government Code. Upon further review of your arguments, we find you have failed to demonstrate the release of the submitted information would interfere with law enforcement or prosecution efforts in general. Accordingly, the city may not withhold any of the submitted information under section 552.108(b)(1) of the Government Code.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.”<sup>1</sup> Gov't Code § 552.101. Section 552.101 encompasses information that other statutes make confidential, such as section 560.003 of the Government Code, which exempts a biometric identifier from disclosure under the Act. *Id.* § 560.003. “Biometric identifier” means a retina or iris scan, fingerprint, voiceprint, or record of hand or face geometry. *Id.* § 560.001. Section 560.002 of the Government Code provides that “[a] governmental body that possesses a biometric identifier of an individual . . . may not sell, lease, or otherwise disclose the biometric identifier to another person unless . . . the individual consents to the disclosure[.]” *Id.* § 560.002(1)(A). You do not inform us, and the submitted information does not indicate, section 560.002 permits the disclosure of the submitted fingerprint information in this instance. Therefore, the city must withhold the fingerprints we have marked under section 552.101 in conjunction with section 560.003.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license issued by a Texas agency, or an agency of another state or country, is excepted from public release. Gov't Code § 552.130(a)(1). Upon review, we find the city must withhold the information we have marked under section 552.130(a)(1).

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

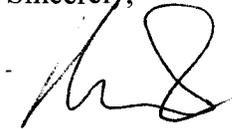
Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body,” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *Id.* § 552.137(a)-(c). The e-mail address we have marked is not one of the types specifically excluded by section 552.137(c). Accordingly, the city must withhold the e-mail address we have marked under section 552.137, unless the owner of the address affirmatively consents to its release.

In summary, the city must withhold the following: (1) the information we have marked under section 552.101 of the Government Code in conjunction with section 560.003 of the Government Code; (2) the information we have marked under section 552.130(a)(1) of the Government Code; and (3) the e-mail address we have marked under section 552.137 of the Government Code, unless the owner of the address affirmatively consents to its release.<sup>2</sup> The city must release the remaining information.<sup>3</sup>

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](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,



Nneka Kanu  
Assistant Attorney General  
Open Records Division

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<sup>2</sup>We note this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold specific categories of information without the necessity of requesting an attorney general decision, including: a fingerprint under section 552.101 in conjunction with section 560.003 of the Government Code and an e-mail address of a member of the public under section 552.137 of the Government Code.

<sup>3</sup>We note the information being released contains social security numbers. 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. Gov’t Code § 552.147(b).

Ref: ID# 488070

Enc. Submitted documents

c: Requestor  
(w/o enclosures)