



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 30, 2014

Ms. Erin A. Higginbotham
Counsel for the City of Copperas Cove
Denton Navarro Rocha Bernal Hyde & Zech, P.C.
2500 West William Cannon Drive, Suite 609
Austin, Texas 78745-5320

OR2014-13163

Dear Ms. Higginbotham:

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# 531533.

The City of Copperas Cove (the "city"), which you represent, received a request for all information related to a specified complaint received by the city's Animal Control Department (the "department"). You state the city has released some information to the requestor. You further state the city will withhold motor vehicle record information pursuant to section 552.130(c) of the Government Code and social security numbers pursuant to section 552.147(b) of the Government Code.¹ 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(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* Gov't Code § 552.108(a)(2). Section 552.108 applies only to records created by an agency, or a portion of an agency, whose primary function is to investigate crimes and enforce criminal laws. *See* Open Records Decision Nos. 493 (1988), 287 (1981). Section 552.108 generally does not apply to records created by an agency whose chief

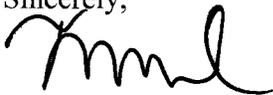
¹Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the 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. *See id.* § 552.147(b).

function is essentially regulatory in nature. Open Records Decision No. 199 (1978). An agency that does not qualify as a law enforcement agency may, under certain limited circumstances, claim that section 552.108 protects records in its possession. *See, e.g.*, Attorney General Opinion MW-575 (1982); Open Records Decision Nos. 493, 272 (1981). If an administrative agency's investigation reveals possible criminal conduct that the administrative agency intends to report or has already reported to the appropriate law enforcement agency, section 552.108 will apply to information gathered by the administrative agency if its release would interfere with law enforcement. *See Gov't Code 552.108(a)(1)*; Attorney General Opinion MW-575 (1982); ORDs 493, 272. You state the submitted information consists of internal law enforcement records. However, upon review, we find the submitted information consists of records from the department. In this instance, you have neither explained to this office how the department is a law enforcement agency for purposes of section 552.108, nor demonstrated to us that the information at issue has been forwarded to an appropriate law enforcement agency. Therefore, the submitted information may not be withheld under section 552.108(a)(2). As you raise no further exceptions to disclosure, the city must release the submitted information.²

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, 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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

²We note the requestor has a special right of access to some of the information being released in this instance. *See Gov't Code § 552.023(a)* (governmental body may not deny access to person to whom information relates, or that party's authorized representative, solely on grounds that information is considered confidential by privacy principles). Because such information is confidential with respect to the general public, if the city receives another request for this information from a different requestor, then the city should again seek a ruling from this office.

Ref: ID# 531533

Enc. Submitted documents

c: Requestor
(w/o enclosures)