



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 10, 2015

Ms. Judith N. Benton
Assistant City Attorney
Legal Services Department
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

OR2015-14016

Dear Ms. Benton:

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# 570854 (Reference No. LGL-15-122).

The City of Waco (the "city") received a request for information pertaining to a specified incident. You state you have released some of the requested information. We understand the city has redacted certain information pursuant to section 552.130(c) of the Government Code and section 552.147(b) of the Government Code.¹ You claim some of the submitted information is excepted from disclosure under sections 552.108 and 552.1175 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.³

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).

²Although you claim section 552.117 of the Government Code for some of the submitted information, we note section 552.1175 is the proper exception to raise in this instance because the city holds the information at issue in a law enforcement capacity.

³We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Section 552.108(a)(1) 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(a)(1) must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You represent the information you have marked relates to a pending criminal case that is being investigated by the city’s police department. Based upon your representation, we conclude release of the information you have marked will 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) (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). Accordingly, we find the city may withhold the information you have marked under section 552.108(a)(1) of the Government Code.

You argue some of the remaining information is subject to section 552.1175 of the Government Code. Section 552.1175 provides in part:

(a) This section applies only to:

(1) peace officers as defined by Article 2.12, Code of Criminal Procedure[.]

(b) Information that relates to the home address, home telephone number, emergency contact information, date of birth, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual’s choice on a form provided by the governmental body, accompanied by evidence of the individual’s status.

Gov’t Code § 552.1175(a)(1), (b). Some of the remaining information, which we have marked, relates to a licensed peace officer but the information is not held in an employment capacity. Accordingly, to the extent the officer at issue elects to restrict access to the marked information in accordance with section 552.1175(b), the information is confidential under section 552.1175 of the Government Code. However, we find none of the remaining information you have marked is subject to section 552.1175. Accordingly, none of the remaining information may be withheld under section 552.1175 of the Government Code.

In summary, the city may withhold the information you have marked under section 552.108(a)(1) of the Government Code. To the extent the officer at issue elects to restrict access to the information we have marked in accordance with section 552.1175(b), the information is confidential under section 552.1175 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.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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/bhf

Ref: ID# 570854

Enc. Submitted documents

c: Requestor
(w/o enclosures)