



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 5, 2017

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

OR2017-00323

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# 640479 (Ref. No. LGL-16-063).

The City of Waco (the "city") received a request for all fire reports and investigations pertaining to a specified address during a specified period of time. You state some information has been released. You claim some of the submitted information is excepted from disclosure under sections 552.108 and 552.117 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108(a)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the

¹Although you do not raise section 552.117 of the Government Code in your brief, we understand you to claim this exception based on your markings.

information you have marked relates to a pending criminal investigation by the city's fire marshal's office. We note, for purposes of section 552.108, the arson investigation division of a fire department is considered a law enforcement unit. *See* Open Records Decision No. 127 at 8 (1976). Based upon this representation, we conclude the release of the marked information would 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). Thus, section 552.108(a)(1) is applicable to the marked information.

As you acknowledge, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov't Code § 552.108(c). Section 552.108(c) refers to the basic “front-page” information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-187; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Therefore, except for basic information, the city may withhold the information you marked under section 552.108(a)(1) of the Government Code.

You assert a portion of the remaining information is subject to section 552.117 of the Government Code. Section 552.117 excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code. *See* Gov't Code § 552.117(a)(1). However, section 552.117(a)(1) is applicable only to information a governmental body holds in an employment context. Upon review, we find the city does not maintain the submitted criminal investigation in an employment capacity. Therefore, the city may not withhold any of the remaining information under section 552.117 of the Government Code.

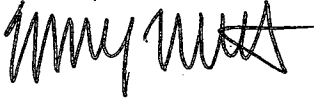
In summary, except for basic information, the city may withhold the information you marked under section 552.108(a)(1) of the Government Code. The remaining information must be released.

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,

A handwritten signature in black ink, appearing to read "Emily Kunst". The signature is stylized with a large, sweeping initial "E" and a long horizontal stroke at the end.

Emily Kunst
Assistant Attorney General
Open Records Division

EK/eb

Ref: ID# 640479

Enc. Submitted documents

c: Requestor
(w/o enclosures)