



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 20, 2009

Mr. Gary A. Scott
Assistant City Attorney
City of Conroe
P.O. Box 3066
Conroe, Texas 77305

OR2009-11713

Dear Mr. Scott:

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# 353202.

The City of Conroe (the "city") received a request for the summary pages of all 2008 cellular telephone bills paid for by the city. You state you have made some information available to the requestor. You claim the remaining requested 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(b)(1) of the Government Code excepts from required public disclosure an internal record of a law enforcement agency maintained for internal use in matters relating to law enforcement or prosecution if "release of the internal record or notation would interfere with law enforcement or prosecution." Gov't Code § 552.108(b)(1). A governmental body that seeks to withhold information under section 552.108(b)(1) must sufficiently explain how and why the release of the information would interfere with law enforcement and crime prevention. *See id.* § 552.301(e)(1)(A); *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); Open Records Decision Nos. 562 at 10 (1990), 531 at 2 (1989). In Open Records Decision No. 506 (1988), this office determined that the

statutory predecessor to section 552.108(b) excepted from disclosure "cellular mobile phone numbers assigned to county officials and employees with specific law enforcement responsibilities." *Id.* at 2. We noted in that decision that the purpose of the cellular telephones was to ensure immediate access to individuals with specific law enforcement responsibilities and that public access to these numbers could interfere with that purpose. *Id.*

We note you seek to withhold cellular telephone numbers pertaining to employees of the city's fire department and police department under section 552.108(b)(1). We understand you to assert that the release of these cellular telephone numbers would interfere with law enforcement and crime prevention. Upon review, we agree the city may withhold the cellular telephone numbers of the city's police department's officers under section 552.108(b)(1) of the Government Code. Although you generally state that the remaining numbers are assigned to city officials and employees with specific law enforcement responsibilities, you do not identify the city employees whose cellular telephones are at issue as having specific law enforcement responsibilities, nor do you provide any explanation of how release of these cellular telephone numbers would interfere with those responsibilities, if any. Therefore, we find that you have failed to demonstrate that the release of the remaining cellular telephone numbers would interfere with law enforcement. Thus, we conclude that the city may not withhold any of the remaining cellular telephone numbers under section 552.108(b)(1) of the Government Code.

Next, we note the submitted documents contain information subject to section 552.136 of the Government Code.¹ Section 552.136 provides that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136. Accordingly, the city must withhold the cellular telephone account numbers contained within the submitted telephone bill summaries pursuant to section 552.136. We have marked representative samples of the numbers that must be withheld under this exception.

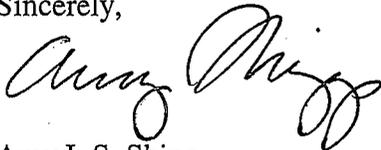
In summary, the city may withhold the cellular telephone numbers of the city's police department officers under section 552.108(b)(1) of the Government Code. The city must withhold the cellular telephone account numbers in the submitted information pursuant to section 552.136 of the Government Code. The remaining information must be released to the requestor.

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

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 at (512) 475-2497.

Sincerely,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/rl

Ref: ID# 353202

Enc. Submitted documents

cc: Requestor
(w/o enclosures)