



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 14, 2009

Mr. Cary L. Bovey  
Law Office of Cary L. Bovey, PLLC  
Attorney for City of Brenham  
2251 Double Creek Drive, Suite 204  
Round Rock, Texas 78664

OR2009-12934

Dear Mr. Bovey:

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# 359865.

The City of Brenham (the "city"), which you represent, received a request for information pertaining to case number 2005-00001311. You state you will release some information to the requestor. You claim portions of the submitted information are excepted from disclosure under sections 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the submitted information relates to an investigation that did not result in conviction or deferred adjudication. Based on your representation and our review, we conclude that section 552.108(a)(2) is applicable to the information you have marked.

As you acknowledge, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers

to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) and includes the identity and description of the complainant. *See* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). With the exception of basic information, the city may withhold the information you have marked under section 552.108(a)(2) of the Government Code.

Section 552.130 of the Government Code excepts from disclosure “information [that] relates to . . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state[.]” Gov’t Code § 552.130(a)(1), (2). We note that this exception protects personal privacy; therefore, the requestor has a right of access to his own section 552.130 information. *See id.* § 552.023. Accordingly, except for the Texas motor vehicle record information pertaining to the requestor, the city may withhold the information you have marked under section 552.130 of the Government Code.

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. *Id.* § 552.147(b). However, this exception also protects personal privacy; therefore, the requestor has a right of access to his own social security number. *See id.* § 552.023. Accordingly, the city may withhold only social security numbers that belong to living persons other than the requestor under section 552.147(b) of the Government Code.

Next, we note some of the remaining information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses chapter 560 of the Government Code, which provides that a governmental body may not release fingerprint information except in certain limited circumstances. *See id.* §§ 560.001 (defining “biometric identifier” to include fingerprints), .002 (prescribing manner in which biometric identifiers must be maintained and circumstances in which they can be released), .003 (biometric identifiers in possession of governmental body exempt from disclosure under the Act). You do not inform us, and the submitted information does not indicate, that section 560.002 permits the disclosure of the fingerprint information we have marked. Therefore, the city must withhold the fingerprint information we have marked under section 552.101 of the Government Code in conjunction with section 560.003 of the Government Code.

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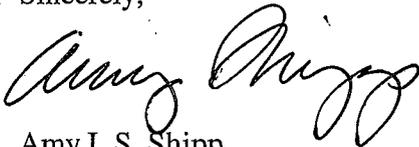
<sup>1</sup>The Office of the Attorney General will raise a mandatory exception like section 552.101 of the Government Code on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, except for basic information, the city may withhold the information you have marked pursuant to section 552.108(a)(2) of the Government Code. Except for the Texas motor vehicle record information pertaining to the requestor, the city may withhold the information you have marked under section 552.130 of the Government Code. The city may withhold only social security numbers that belong to living persons other than the requestor under section 552.147(b) of the Government Code. The city must withhold the fingerprint information we have marked under section 552.101 of the Government Code in conjunction with section 560.003 of the Government Code. The remaining information must be released to the requestor.<sup>2</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,



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

ALS/rl

Ref: ID# 359865

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

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<sup>2</sup> In the event the city receives another request for this information from someone other than this requestor or his authorized representative, the city must again ask this office for a ruling.