



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 15, 2013

Ms. Cathy Cunningham
For City of Keller
Boyle & Lowry, L.L.P.
4201 Wingren, Suite 108
Irving, Texas 75062-2763

OR2013-00886

Dear Ms. Cunningham:

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# 476636.

The City of Keller (the "city"), which you represent, received a request for information regarding a specified incident, including dash camera video, surveillance video, and the personnel file of the involved police officer. You state the city is releasing most of the information to the requestor. You also state the city will redact social security numbers pursuant to section 552.147 of the Government Code.¹ You claim the submitted information is excepted from disclosure under sections 552.108 and 552.140 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information, a portion of which consists of a representative sample.²

¹Section 552.147(b) of the Government Code authorizes a governmental body to redact the social security number of a living person without the necessity of requesting a decision from this office under the Act. *See Gov't Code § 552.147(b).*

²We 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 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted dash camera and surveillance videos relate to a criminal case that is currently active with the city’s police department. Based on your representation and our review, we find the release of this 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). Accordingly, the city may withhold the submitted dash camera and surveillance videos under section 552.108(a)(1) of the Government Code.

Section 552.140 of the Government Code provides a military veteran’s DD-214 form or other military discharge record that is first recorded with or that otherwise first comes into the possession of a governmental body on or after September 1, 2003, is confidential for a period of seventy-five years and may be disclosed only in accordance with section 552.140 or a court order. *See Id.* § 552.140(a)-(b). We note that section 552.140 applies to only the DD-214 form itself or other military discharge records and not references to the form or records. You seek to withhold orders and other information relating to a city police officer’s active duty status with the Texas Army National Guard under section 552.140. Upon review, we find you have not established the information at issue consists of a DD-214 form or other military discharge record. Accordingly, the city may not withhold any of the information at issue under section 552.140 of the Government Code.

Section 552.117(a)(2) of the Government Code excepts from public disclosure the current and former home addresses and telephone numbers, emergency contact information, social security number, and family member information of a peace officer, regardless of whether the peace officer made an election under section 552.024 or section 552.1175 of the Government Code to keep such information confidential.³ Gov’t Code § 552.117(a)(2). Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. Therefore, the city must withhold the information we have marked under section 552.117(a)(2) of the Government Code.

In summary, the city may withhold the submitted dash camera and surveillance videos under section 552.108(a)(1) of the Government Code. The city must withhold the information we

³The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).*

have marked under section 552.117(a)(2) of the Government Code. The city must release the remaining information.

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, toll free at (888) 672-6787.

Sincerely,



Kristi L. Wilkins
Assistant Attorney General
Open Records Division

KLW/ag

Ref: ID# 476636

Enc. Submitted documents

c: Requestor
(w/o enclosures)