



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 29, 2014

Mr. David H. Guerra  
Counsel for City of Mission  
King, Guerra, Davis & Garcia  
P.O. Box 1025  
Mission, Texas 75873

OR2014-01690

Dear Mr. Guerra:

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# 516059.

The City of Mission (the "city"), which you represent, received two requests for the resignation paperwork for a named individual, as well as search warrants and search warrant affidavits pertaining to two named individuals. You claim the submitted 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.

Initially, we note you have not submitted information responsive to the request for the resignation paperwork for a named individual. To the extent this information existed and was maintained by the city at the time of the request, we assume you have released it. If you have not released this information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Additionally, we note the submitted information includes search warrants. A document that has been filed with a court is expressly public under section 552.022 of the Government Code and may not be withheld unless it is confidential under the Act or other law. *See* Gov't Code § 552.022(a)(17). Although you seek to withhold this information under

section 552.108 of the Government Code, this section is a discretionary exception and does not make information confidential under the Act. *See* Gov't Code § 552.007; Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). Accordingly, the city may not withhold the search warrants, which we have marked, under section 552.108. However, we note portions of the search warrants may be subject to section 552.137 of the Government Code.<sup>1</sup> As this section can make information confidential under the Act, we will consider its applicability to the search warrants.

Section 552.137 excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body,” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). Gov't Code § 552.137(a), (c). Accordingly, the city must withhold the e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners of the addresses have affirmatively consented to their release.<sup>2</sup>

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 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 information at issue relates to a pending criminal investigation. Based on your representation and our review, we conclude release of the remaining 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). Therefore, we agree section 552.108(a)(1) of the Government Code is applicable to the remaining information.

However, section 552.108 does not except from disclosure basic information. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information considered to be basic information). Thus, with the

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<sup>1</sup>The 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).

<sup>2</sup>Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting a decision under the Act.

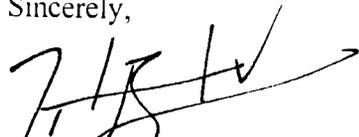
exception of basic information, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code.

In summary, the city must release the search warrants we have marked pursuant to section 552.022(a)(17) of the Government Code; however, the city must withhold the e-mail addresses within the search warrants that we have marked pursuant to section 552.137 of the Government Code. With the exception of basic information, which must be released, the city may withhold the remaining information pursuant to section 552.108(a)(1) of the Government Code.

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](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,



Joseph Behnke  
Assistant Attorney General  
Open Records Division

JB/eb

Ref: ID# 516059

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

