



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 13, 2011

Mr. Aldofo Ruiz
McKamie Krueger, LLP
941 Proton Road
San Antonio, Texas 78258

OR2011-08359

Dear Mr. Ruiz:

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# 420267.

The City of Hondo (the "city"), which you represent, received a request for the report for case number 09-01740. You state some of the requested information has been released. You claim that portions of the submitted information are excepted from disclosure under sections 552.108 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108 provides, in pertinent part, the following:

- (a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

(2) it is information that the deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

....

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure] if:

...

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication[.]

....

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest or a crime.

Gov't Code § 552.108(a)(2), (b)(2), (c). Subsection 552.108(a)(2) or subsection 552.108(b)(2) are applicable only if the information at issue relates to a concluded criminal case that did not result in a conviction or a deferred adjudication. A governmental body claiming section 552.108 must reasonably explain how and why release of the requested information would interfere with law enforcement. *See id.* § 552.301(e)(1)(A). You seek to withhold the names and identifying information of several individuals listed as "Subject[s]" in the submitted report. You state that the submitted report relates to a criminal investigation that involved several suspects, one of whom received deferred adjudication. You also explain that the charges against the other "Subject[s]" were dismissed and did not result in conviction or deferred adjudication. We understand you to contend that the information relating to the individual who received deferred adjudication and the individuals whose charges did not result in conviction or deferred adjudication is so intertwined that it cannot be easily separated. Based on your representations and our review, we agree that the information cannot be separated. Accordingly, we conclude that subsection 552.108(a)(2) and subsection 552.108(b)(2) are generally applicable to the information you seek to withhold.

However, 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). 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). In Open Records Decision No. 127 (1976) this office concluded that basic information includes an arrestee's social security number, name, alias,

race, sex, age, occupation, address, police department identification number, and physical condition. ORD 127 at 3 (summarizing types of information deemed public by *Houston Chronicle*). In this instance, the submitted information reveals some of the "Subject[s]" whose identifying information you seek to withhold under section 552.108 were arrested in connection with the case. Accordingly, the city must release the basic information pertaining to these arrestees pursuant to section 552.108(c). The remaining information you seek to withhold may be withheld under subsection 552.108(a)(2) and subsection 552.108(b)(2) of the Government Code.

Section 552.130 excepts from public disclosure information that relates to a motor vehicle title or registration issued by an agency of this state.¹ Gov't Code § 552.130(a)(2). Upon review, we find the city must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code.

Section 552.136(b) of the Government Code states that "[n]otwithstanding any other provision of [the Act], 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." *Id.* § 552.136(b); *see id.* § 552.136(a) (defining "access device"). Upon review, we find the city must withhold the credit card numbers we have marked in the remaining information under section 552.136 of the Government Code.

In summary, except for basic information pertaining to the arrestees, the city may withhold the information you seek to withhold under subsection 552.108(a)(2) and subsection 552.108(b)(2) of the Government Code. The city must withhold the information we have marked under section 552.130 of the Government Code and section 552.136 of the Government Code.² 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.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

¹The 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).

²Open Records Decision No. 684 (2009) is a previous determination authorizing all governmental bodies to withhold ten categories of information, including a Texas license plate number under section 552.130 of the Government Code and a credit card number under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

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,

A handwritten signature in cursive script that reads "Laura Ream Lemus".

Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/em

Ref: ID# 420267

Enc. Submitted documents

c: Requestor
(w/o enclosures)