



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 15, 2012

Ms. Linda Pemberton
Office of the City Attorney
City of Killeen
P.O. Box 1329
Killeen, Texas 76540-1329

OR2012-16420

Dear Ms. Pemberton:

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# 467775 (ORR# W008647).

The Killeen Police Department (the "department") received a request for the "Public Release Information" related to twenty-five specified call numbers pertaining to two particular addresses. You state some responsive information has been released. 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 the requestor only seeks access to the basic information contained in the submitted police reports. Section 552.108 of the Government Code 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 Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976). *See id.* at 186-187; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note that basic information in an offense/incident report includes the identity and description of the complainant as well as a sufficient portion of the narrative to encompass a detailed description of the offense. We also note that basic information does not include identifying information of witnesses or suspects who were not arrested. Thus,

the department must release basic information from the submitted reports in accordance with section 552.108(c) and *Houston Chronicle*. Because the requestor only seeks basic information, any submitted non-basic information is not responsive to this request. This ruling does not address the public availability of non-responsive information, and the department is not required to release non-responsive information in response to this request. As we are able to make this determination, we need not address your claims under section 552.108 of the Government Code.

We note a portion of the basic information is protected by section 552.101 of the Government Code, which excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."¹ Gov't Code § 552.101. This section encompasses the common-law right to privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public.

Indus. Found. v. Tex. Indus. Accident Bd., 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be met. *Id.* at 681-82.

The type of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. Upon review, we find the information we have marked is highly intimate or embarrassing and of no legitimate public interest. Therefore, the city must withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle title or registration issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(2). The department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.²

Section 552.136 of the Government Code provides in part 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." Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). Accordingly, the

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²We note Open Records Decision No. 684 (2009) is a previous determination issued by this office authorizing all governmental bodies to withhold certain categories of information, including a Texas license plate number under section 552.130(a)(2) of the Government Code, without the necessity of seeking a decision from the attorney general. *See* ORD 684

department must withhold the account numbers we have marked under section 552.136 of the Government Code.

In summary, the department must release basic information from the submitted reports in accordance with section 552.108(c) and *Houston Chronicle*. In releasing basic information, the department must withhold the information we have marked under (1) section 552.101 of the Government Code in conjunction with common-law privacy, (2) section 552.130 of the Government Code, and (3) section 552.136 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.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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 467775

Enc. Submitted documents

c: Requestor
(w/o enclosures)