



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 7, 2013

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

OR2013-17415

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# 501607 (ID# W011135).

The Killeen Police Department (the "department") received a request for service calls or police reports for a specified location for a specified time period. You state you have released most of the requested information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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 information protected by other statutes. Article 61.02 of the Code of Criminal Procedure provides in part that "a criminal justice agency or a juvenile justice agency shall compile criminal information into an intelligence database for the purpose of investigating or prosecuting the criminal activities of criminal combinations or criminal street gangs." Crim. Proc. Code art. 61.02(a). Article 61.03 provides in part:

(a) A criminal justice agency may release on request information maintained under this chapter to:

(1) another criminal justice agency;

(2) a court; or

(3) a defendant in a criminal proceeding who is entitled to the discovery of the information under Chapter 39.

*Id.* art. 61.03(a). Article 61.05 of the Code of Criminal Procedure provides that release of the information to a person who is not entitled to the information is a Class A misdemeanor. You inform us the information you have marked is maintained in the department's intelligence records for the purpose of investigating criminal gangs and may only be retrieved from documents contained in gang records. We understand the requestor is not entitled to obtain the information under article 61.03. Based on your representations, we conclude the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with article 61.03 of the Code of Criminal Procedure.<sup>1</sup>

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). Generally, 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 inform us that incident report number 13-004486 pertains to an open and active criminal investigation. Based on your representations, we conclude that the release of incident report number 13-004486 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 that section 552.108(a)(1) is applicable to this information.

We note, however, that 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*. *See* 531 S.W.2d at 186-8; *see also* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Therefore, with the exception of basic information, which you state you have released, the department may withhold report number 13-004486 under section 552.108(a)(1) of the Government Code.

In summary, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with article 61.03 of the Code of Criminal Procedure. With the exception of basic information, which you state you have

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

released, the department may withhold report number 13-004486 under section 552.108(a)(1) of the Government Code. 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.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,



Nneka Kanu  
Assistant Attorney General  
Open Records Division

NK/bhf

Ref: ID# 501607

Enc. Submitted documents

c: Requestor  
(w/o enclosures)