



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 29, 2013

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

OR2013-18828

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# 503826 (Killeen ID# W011381).

The Killeen Police Department (the "department") received a request for a specified police report. You state you have released some information to the requestor. You claim that the remaining requested 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.

The requestor identifies himself as a lieutenant with the City of Federal Way Police Department, and states he seeks access to the requested information in connection with a pre-employment background investigation. Accordingly, the department has the discretion to release the requested information to this requestor pursuant to an intergovernmental transfer. This office ruled in Open Records Decision No. 661 (1999) whether a governmental entity may release information to another governmental entity is not a question under the Act, as the Act is concerned with the required release of information to the public. Gov't Code §§ 552.001, .002, .021; *see* Attorney General Opinions H-683 (1975), H-242 (1974), M-713 (1970); Open Records Decision No. 655 (1997). For many years, this office has recognized it is the public policy of this state that governmental bodies should cooperate with each other in the interest of the efficient and economical administration of

statutory duties. *See, e. g.*, Attorney General Opinion H-836 (1976); ORD 655. *But see* Attorney General Opinions DM-353 at 4 n.6 (1995) (interagency transfer prohibited where confidentiality statute enumerates specific entities to which release of confidential information is authorized and where receiving agency is not among statute's enumerated entities), JM-590 (1986) (same); Open Records Decision Nos. 655, 650 (1996) (transfer of confidential information to federal agency impermissible unless federal law requires its disclosure). In adherence to this policy, this office has concluded information may be transferred between governmental bodies that are subject to the Act without waiving exceptions to the public disclosure of that information or affecting its confidentiality on the basis of a recognized need to maintain an unrestricted flow of information between governmental bodies. *See* Attorney General Opinions H-836, H-242, M-713; Open Records Decision Nos. 655, 414 (1984). Thus, the release of information by one agency to another agency is not a release to the public for the purposes of section 552.007 of the Government Code, which prohibits the selective disclosure of information. *See* ORD 655 at 8. Accordingly, the department would have the discretion to release the requested information to this requestor even if the information is confidential. However, should the department decline to exercise that discretion, it must nonetheless adhere to the following decision regarding the applicability of the claimed exception to the requested information.

Section 552.108(a)(2) 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 . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication." Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A). You state the submitted report pertains to a closed investigation that did not result in conviction or deferred adjudication. Based on your representation and our review, we find the department has demonstrated the information at issue relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication.

As you acknowledge, section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." *Id.* § 552.108(c). Section 552.108(c) refers to the basic "front-page" information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88. Basic information must be released, even if it does not literally appear on the front page of the report. *See* 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 the submitted information under section 552.108(a)(2) 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](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,



Lauren E. Kleine  
Assistant Attorney General  
Open Records Division

LEK/bhf

Ref: ID# 503826

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)