



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 13, 2013

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

OR2013-19774

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# 505517 (Killeen ID #W011467).

The City of Killeen (the "city") received a request for reports pertaining to two specified addresses from specified periods of time. You state the city has released some of the requested information to the requestor. You claim that 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 police report numbers 07-003516, 11-000439, and 11-016804 were the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2012-05415 (2012). In Open Records Letter No. 2012-05415, we determined, with the exception of basic information, the city may withhold report number 11-016804 under section 552.108(a)(1) of the Government Code and report numbers 07-003516 and 11-000439 under section 552.108(a)(2) of the Government Code. With respect to these report numbers, we have no indication there has been any change in the law, facts, or circumstances on which the prior ruling was based. Accordingly, we conclude the city may rely on Open Records Letter No. 2012-05415 as a previous determination and withhold or release report numbers 07-003516, 11-000439, and 11-016804 in accordance

with that ruling.<sup>1</sup> See Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, as report number 12-010289 was not at issue in the previous ruling, we will address your argument against disclosure of this information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than 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 has concluded in a final result other than a conviction or deferred adjudication. See *id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state report number 12-010289 pertains to an investigation that concluded in a result other than a conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to this report.

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). 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); see also Open Records Decision No. 127 (1976) (summarizing the types of information considered to be basic information). Thus, with the exception of the basic information, which you state you have released, you may withhold report number 12-010289 from disclosure based on section 552.108(a)(2) of the Government Code.

In summary, the city may rely on Open Records Letter No. 2012-05415 as a previous determination and withhold or release report numbers 07-003516, 11-000439, and 11-016804 in accordance with that ruling. With the exception of the basic information, the city may withhold report number 12-010289 from disclosure based on 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.

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

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,

A handwritten signature in black ink, appearing to read 'Sarah Casterline', followed by a large, stylized flourish or scribble.

Sarah Casterline  
Assistant Attorney General  
Open Records Division

SEC/tch

Ref: ID# 505517

Enc. Submitted documents

c: Requestor  
(w/o enclosures)