



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 20, 2013

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

OR2013-20264

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# 506307 (KPD Ref. No. W011532).

The Killeen Police Department (the "department") received a request for information pertaining to a specified incident involving a named individual. You state you have released some of the responsive information to the requestor. 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.

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 that the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. You raise section 552.108(a)(2) for the submitted report and state the information at issue pertains to a case that did not result in a conviction or deferred adjudication. However, you also refer to the submitted information as an open criminal investigation file in your brief to our office. Because you have provided this office with contradictory representations regarding the information at issue, we find you have failed to demonstrate the applicability of section 552.108(a)(2) to this information. *See id.* § 552.301(e)(1)(A) (governmental body

must provide comments explaining why claimed exceptions to disclosure apply). Therefore, we conclude the department may not withhold the submitted information under section 552.108(a)(2) of the Government Code. As you raise no other exception to disclosure, the submitted information must be released.¹

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, 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,



Michelle R. Garza
Assistant Attorney General
Open Records Division

MRG/som

Ref: ID# 506307

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note the information to be released contains a social security number. Section 552.147 of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. See Gov't Code § 552.147(b).