



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 27, 2014

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

OR2014-15135

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# 534713 (Killeen Request Nos. W013714, W013752).

The Killeen Police Department (the "department") received two requests for a specified incident report. 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. We have also received and considered comments from one of the requestors. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

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. *Id.* § 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.* §§ 552.108(a)(2), .301(e)(1)(A). You state the submitted information pertains to an investigation that concluded in a result other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to the submitted information.

However, 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 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. per curiam*, 536 S.W.2d 559 (Tex. 1976). See Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). We note basic information includes, among other things, a detailed description of the offense. Thus, with the exception of the basic information, the department may withhold the submitted information under section 552.108(a)(2) of the Government Code.

Section 552.101 of the Government Code excepts “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) 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 satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office has concluded some kinds of medical information are generally highly intimate or embarrassing. See Open Records Decision No. 455 (1987). Upon review, we find some of the basic information, which we marked, satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, when releasing basic information, the department must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, you have failed to demonstrate how any of the remaining information at issue is highly intimate or embarrassing and of no legitimate public interest. Thus, no portion of the remaining information at issue may be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, with the exception of the basic front-page offense and arrest information, the department may withhold the submitted information under section 552.108(a)(2) of the Government Code. When releasing basic information, the department must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must release the remaining basic information.

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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/ds

Ref: ID# 534713

Enc. Submitted documents

c: Requestor
(w/o enclosures)