



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 30, 2016

Ms. Jackie Fisher-Davis
Records Clerk
Harker Heights Police Department
402 Indian Trail
Harker Heights, Texas 76548

OR2016-22044

Dear Ms. Fisher-Davis:

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# 628754.

The Harker Heights Police Department (the "department") received a request for all records and reports related to a specified incident. 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.

Initially, we understand you have redacted some information pursuant to section 552.130(c) of the Government Code.¹ However, we note the department has also redacted dates of birth in the submitted information. A governmental body may not withhold information from the public without asking this office for a decision under section 552.301 of the Government Code unless a provision of the Act or a previous determination specifically authorizes the governmental body to do so. *See Gov't Code* § 552.301(a); Open Records Decision No. 673 (2001). You do not assert, nor does our review of the records indicate, you have been authorized to withhold dates of birth without seeking a ruling from this office. Therefore, information must be submitted in a manner that enables this office to determine whether the

¹Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See Gov't Code* § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

information comes within the scope of an exception to disclosure. In this instance, we can discern the nature of the redacted information; thus, being deprived of this information does not inhibit our ability to make a ruling. In the future, however, the department should refrain from redacting any information that it is not authorized to withhold in seeking an open records ruling. Failure to do so may result in the presumption the redacted information is public. *See* Gov't Code § 552.302.

Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. *See 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. You state the submitted information pertains to a case that concluded in a result other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable.

However, 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). Thus, with the exception of basic information, which must be released, the department may withhold the submitted information from disclosure under section 552.108(a)(2).

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,



Erin Groff
Assistant Attorney General
Open Records Division

EMB/som

Ref: ID# 628754

Enc. Submitted documents

c: Requestor
(w/o enclosures)