



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 29, 2016

Ms. Rita Monterrosa
Litigation Paralegal
Office of the City Attorney
City of Abilene
P.O. Box 60
Abilene, Texas 79604-0060

OR2016-19549

Dear Ms. Monterrosa:

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# 624615.

The City of Abilene (the "city") received a request for information pertaining to specified incidents. You state you have released some information to the requestor. 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.

Initially, you inform us some of the requested information at issue was the subject of previous requests for information, in response to which this office issued Open Records Letter Nos. 2014-19992 (2014), 2015-07504 (2015), and 2016-02697 (2016). In Open Records Letter No. 2014-19992, we determined the city must withhold certain information under section 552.101 of the Government Code in conjunction with section 143.089(g) of the Local Government Code. In Open Records Letter No. 2015-07504, we determined (1) with the exception of basic information, the city may withhold certain information under section 552.108(a)(2) of the Government Code; (2) the city must withhold certain information under section 552.101 of the Government Code in conjunction with common-law privacy; (3) if the information at issue pertains to a currently licensed peace officer and the officer elects to restrict access to his information in accordance with

section 552.1175(b), then the city must withhold the information at issue under section 552.1175 of the Government Code; (4) the city must withhold certain information and any other discernable license plate numbers under section 552.130 of the Government Code; and (5) the city must release the remaining information. In Open Records Letter No. 2016-02697, we determined the city may withhold certain information under section 552.108(a)(1) of the Government Code. We have no indication the law, facts, or circumstances on which the prior rulings were based have changed. Accordingly, the city must continue to rely on Open Records Letter Nos. 2014-19992, 2015-07504, and 2016-02697 as previous determinations and withhold or release the previously requested information in accordance with those rulings. *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, the submitted information is not subject to the previous rulings. Thus, we will address the exception you claim for this information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information dealing with the detection, investigation, or prosecution of crime only in relation to 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 concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). The city states the submitted information relates to a concluded case that did not result in a conviction or deferred adjudication. Based on the city's representation, we conclude section 552.108(a)(2) is applicable to the information at issue.

Section 552.108, however, 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 does not include dates of birth. *See id.* at 3-4. Thus, with the exception of basic information, the city may withhold the submitted information under section 552.108(a)(2) of the Government Code.¹

In summary, the city must continue to rely on Open Records Letter Nos. 2014-19992, 2015-07504, and 2016-02697 as previous determinations and withhold or

¹As our ruling is dispositive, we need not address your remaining argument against disclosure.

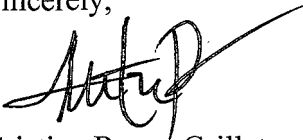
release the previously requested information in accordance with those rulings. With the exception of basic information, the city may withhold the submitted information under section 552.108(a)(2) of the Government Code.

Finally, the city asks this office to issue a previous determination permitting it to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy without seeking a ruling from this office. *See* Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); ORD 673. We decline to issue such a previous determination at this time.

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,



Cristian Rosas-Grillet
Assistant Attorney General
Open Records Division

CRG/bw

Ref: ID# 624615

Enc. Submitted documents

c: Requestor
(w/o enclosures)