



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 12, 2017

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

OR2017-07809

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# 654048 (ORR# W021382).

The Killeen Police Department (the "department") received a request for all information pertaining to a named individual, including a specified incident. 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, we note the submitted information was the subject of previous requests for information, as a result of which this office issued Open Records Letter Nos. 2014-16523 (2014), 2015-00317 (2015), and 2017-01934 (2017). In Open Records Letter No. 2014-16523, we determined with the exception of basic information, which must be released, the department may withhold report number 14-004252 under section 552.108(a)(2) of the Government Code. Further, in Open Records Letter No. 2015-00317, we determined with the exception of basic information, which must be released, the department may withhold report number 14-012920 under section 552.108(a)(1) of the Government Code. Finally, in Open Records Letter No. 2017-01934, we determined the department must withhold report number 13-009910 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code; however, if the department determined the requestor, a representative of the Detroit Police Department, sought the criminal history record

information (“CHRI”) for a criminal justice purpose and for purposes consistent with the Family Code, then the department must make CHRI available to the requestor pursuant to chapter 411 of the Government Code. We have no indication there has been any change in the law, facts, or circumstances on which Open Records Letter Nos. 2014-16523 and 2017-01934 were based with respect to report numbers 13-009910 and 14-004252. Accordingly, the department must rely on Open Records Letter Nos. 2014-16523 and 2017-01934 as previous determinations and withhold or release report numbers 14 004252 and 13-009910 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, although the department previously claimed section 552.108(a)(1) of the Government Code for report number 14-012920, we note the department now claims section 552.108(a)(2) for that report. Accordingly, the law, facts, and circumstances have changed with respect to report number 14-012920 and the department may not rely on Open Records Letter No. 2015-00317 as a previous determination. Therefore, we will consider the department’s argument against release of report number 14-012920.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* 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 14-012920 relates to a closed case that did not result in conviction or deferred adjudication. Based on your representation and our review, we agree section 552.108(a)(2) is applicable to report number 14-012920.

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 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 types of information considered to be basic information). Thus, with the exception of the basic information, the department may withhold report number 14-012920 under section 552.108(a)(2) of the Government Code.

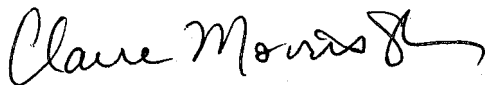
In summary, the department must rely on Open Records Letter Nos. 2014-16523 and 2017-01934 as previous determinations and withhold or release report numbers 14-004252 and 13-009910 in accordance with those rulings. With the exception of the basic

information, which must be released, the department may withhold report number 14-012920 under 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.

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/nmd

Ref: ID# 654048

Enc. Submitted documents

c: Requestor
(w/o enclosures)