



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 27, 2017

Ms. Lizbeth Islas Plaster  
City Attorney  
City of Lewisville  
P.O. Box 299002  
Lewisville, Texas 75029-9002

OR2017-26808

Dear Ms. Plaster

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# 685595 (Ref. No. P021113-090617).

The City of Lewisville (the "city") received a request for information pertaining to a specified case. 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.

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 the submitted information relates to a closed criminal 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 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 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 city may withhold the submitted information under section 552.108(a)(2) of the Government Code.<sup>1</sup>

You also claim the basic information is subject to the doctrine of common-law privacy. Section 552.101 of the Government Code excepts from disclosure “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 (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation. Id.* at 683.

In this instance, you seek to withhold the entirety of the basic information under section 552.101 in conjunction with common-law privacy. However, you have not demonstrated, and we are not able to determine, this is a situation where the entirety of the basic information must be withheld. Accordingly, the city may not withhold the entirety of the basic information under section 552.101 of the Government Code on that basis. However, we find some of the basic information meets the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, in releasing basic information, the city must withhold the identity of the victim under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have failed to demonstrate the remaining basic information is highly intimate or embarrassing and not of legitimate public interest. Therefore, the city may not withhold the remaining basic information under section 552.101 on this basis.

In summary, with the exception of basic information, which must be released, the city may withhold the submitted information under section 552.108(a)(2) of the Government Code. In releasing basic information, the city must withhold the identity of the victim under section 552.101 of the Government Code in conjunction with common-law privacy.

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.

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

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](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,

A handwritten signature in black ink, appearing to read "Matthew Taylor", with a horizontal line extending to the right.

Matthew Taylor  
Assistant Attorney General  
Open Records Division

MHT/tdw

Ref: ID# 685595

Enc. Submitted documents

c: Requestor  
(w/o enclosures)