



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 15, 2020

Mr. Trenton M. Dietz  
Assistant City Attorney  
City of Abilene  
P.O. Box 60  
Abilene, Texas 79604-0060

OR2020-23276

Dear Mr. Dietz:

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# 844047 (ORR Nos. 20-1291 and 20-1360).

The City of Abilene (the "city") received two requests from the same requestor for information related to a specified incident. You state the city will withhold motor vehicle record information pursuant to section 552.130(c) of the Government Code.<sup>1</sup> You claim the requestor did not properly request some of the submitted information pursuant to section 1701.661 of the Occupations Code. Additionally, you claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.1085, 552.117, 552.119, 552.136, and 552.152 of the Government Code. We have considered your arguments and reviewed the submitted information.

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. 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) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the submitted

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<sup>1</sup> Section 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 relates to concluded criminal cases that did not result in a conviction or deferred adjudication. Based on your representations and our review, we conclude section 552.108(a)(2) is applicable to the submitted information.

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* Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). We note basic information includes, among other items, the names of the arresting and investigating officers. *See* ORD 127 at 3-4. Thus, with the exception of basic information, the city may withhold the submitted information pursuant to section 552.108(a)(2) of the Government Code.<sup>2</sup>

Section 552.152 of the Government Code provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.152. You indicate some of the basic information identifies undercover police officers. You assert release of their identities would jeopardize their safety and subject the officers to a substantial threat of physical harm. Thus, we find section 552.152 is applicable to the identity of the undercover officers within the information at issue. Accordingly, the city must withhold the identifying information of the undercover officers within the basic information under section 552.152 of the Government Code.

In summary, with the exception of basic information, which must be released, the city may withhold the submitted information pursuant to section 552.108(a)(2) of the Government Code. In releasing the basic information, the city must withhold the identifying information of the undercover officers under section 552.152 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable

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<sup>2</sup> As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information or the applicability of section 1701.661(a) of the Occupations Code to the body worn camera video recordings at issue. *See generally* Occ. Code § 1701.661(a), (e).

charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Tim Neal  
Assistant Attorney General  
Open Records Division

TN/jxd

Ref: ID# 844047

Enc. Submitted documents

c: Requestor  
(w/o enclosures)