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ATTORNEY GENERAL OF TEXAS

April 19, 2022

Ms. Tessa K. Meredith
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Messer Fort McDonald PLLC
6371 Preston Road, Suite 200
Frisco, Texas 75034

OR2022-11340

Dear Ms. Meredith:

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# 940077 (ORR# 1366).

The City of Denison (the "city") received a request for information pertaining to a specified incident. The city claims either it is not required to comply with the request pursuant to section 552.028 of the Government Code or the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the submitted arguments and reviewed the submitted information.

Section 552.028(a) of the Government Code provides the following:

(a) A governmental body is not required to accept or comply with a request for information from:

(1) an individual who is imprisoned or confined in a correctional facility; or

(2) an agent of that individual, other than that individual's attorney when the attorney is requesting information that is subject to disclosure under [the Act].

Gov't Code § 552.028(a), (c). Upon review, we find the city has not established the requestor is requesting information on behalf of the incarcerated individual at issue. Thus, we find the city has failed to demonstrate the request for information was submitted by an

agent of an individual who is imprisoned or confined in a correctional facility. Accordingly, we conclude section 552.028 of the Government Code does not permit the city to decline to comply with this request.

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 information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). The city states 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 to this 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 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, which the city must release, the city may withhold the submitted information under section 552.108(a)(2) of the Government Code.¹

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 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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/be

Ref: ID# 940077

c: Requestor

¹ As our ruling is dispositive, we do not address the other argument of the city to withhold this information.