



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 25, 2022

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

OR2022-32971

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# 980239 (ORR# 22-1635).

The City of Abilene (the "city") received a request for a specified report. You state you will redact dates of birth pursuant to Open Records Letter No. 2019-32652 (2019).¹ You also state you will redact motor vehicle record information pursuant to section 552.130(c) of the Government Code.² You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. You also state you notified an individual of the request for information and of the right to submit arguments to this office as to why the submitted information should not be released.³ *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the exception you claim and reviewed the submitted representative sample of information.⁴

¹ Open Records Letter No. 2019-32652 is a previous determination issued to the city authorizing it to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without seeking a ruling from this office. *See* Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

² Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 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 redact such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

³ As of the date of this letter, we have not received any comments from an individual explaining why any portion of the remaining requested information should not be released to the requestor.

⁴ We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records

Initially, you state some of the submitted information may have been the subject of previous requests for information, as a result of which this office issued Open Records Letter Nos. 2020-23276 (2020), 2021-00992 (2021), and 2021-29159 (2021). We have no indication there has been any change in the law, facts, or circumstances on which the previous rulings were based. Accordingly, for the submitted information that is identical to the information previously requested and ruled upon by this office, we conclude the city must rely on Open Records Letter Nos. 2020-23276, 2021-00992, and 2021-29159 as previous determinations and withhold or release the identical 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). To the extent the submitted information was not subject to previous rulings, we will address your argument.

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

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 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. 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 at 3-4 (1976) (summarizing types of information considered to be basic information). Thus, 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 summary, the city must rely on Open Records Letter Nos. 2020-23276, 2021-00992, and 2021-29159 as previous determinations and withhold or release the identical information in accordance with those rulings. 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.

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.

letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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,

Sarah E. Reese
Attorney
Open Records Division

SER/jxd

Ref: ID# 980239

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)