



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 8, 2013

Ms. Kirsten B. Cohoon  
City Attorney  
City of Boerne  
P.O. Box 1677  
Boerne, Texas 78006

OR2013-11524

Dear Ms. Cohoon:

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# 497094.

The City of Boerne (the "city") received a request for all information pertaining to a specified offense. You state the city released some information to the requestors. You claim the submitted information is excepted from disclosure under sections 552.108, 552.1175, and 552.130 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 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 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 criminal case that is closed and did not result in a conviction or deferred adjudication. Thus, we find the city has demonstrated the information at issue deals with the detection, investigation, or prosecution of crime in relation to a closed investigation that did not result in conviction or deferred adjudication. Thus, 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). Basic information includes a “detailed description of the offense” and the name, age, address, race, sex, occupation, alias, social security number, police department identification number, and physical condition of the arrestee. *See* 531 S.W.2d at 187; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public *Houston Chronicle*). We note you seek to withhold the entire narrative portion of the submitted report as well as the age, address, race, and sex of the arrestee under section 552.108. We find the city must release a sufficient portion of the narrative section of the submitted report to encompass a detailed description of the offense and the age, address, race, and sex of the arrestee as basic information. Accordingly, with the exception of basic information, which must include a detailed description of the offense and the age, address, race and sex of the arrestee, the city may withhold the submitted report under section 552.108(a)(2) of the Government Code.<sup>1</sup>

We understand you to raise section 552.1175 of the Government Code for the arrestee’s address. Section 552.1175 provides in pertinent part:

(a) This section applies only to:

(1) peace officers as defined by Article 2.12, Code of Criminal Procedure[.]

...

(b) Information that relates to the home address, home telephone number, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual’s choice on a form provided by the governmental body, accompanied by evidence of the individual’s status.

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

Gov't Code § 552.1175(a)(1), (b). Thus, if the arrestee, who we understand is a peace officer as defined by article 2.12 of the Code of Criminal Procedure, elects to restrict access to his address in accordance with section 552.1175(b), then the city must withhold this information from the basic information under section 552.1175 of the Government Code. To the extent the arrestee at issue does not elect to keep this information confidential, it may not be withheld on that basis.

In summary, with the exception of basic information, which must include a detailed description of the offense as well as the age, address, race, and sex of the arrestee, the city may withhold the submitted report under section 552.108(a)(2) of the Government Code. If the arrestee elects to restrict access to his address in accordance with section 552.1175(b) of the Government Code, then the city must withhold his address from the basic information under section 552.1175 of the Government Code. The remaining basic information must be released.

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](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,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/ag

Ref: ID# 497094

Enc. Submitted documents

c: Requestor  
(w/o enclosures)