



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 24, 2015

Ms. Judi S. Rawls  
Police Administrative Legal Counsel  
Beaumont Police Department  
P.O. Box 3827  
Beaumont, Texas 77704-3827

OR2015-05592

Dear Ms. Rawls:

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# 558643.

The Beaumont Police Department (the "department") received a request for information concerning all incidents in which an officer of the department discharged a firearm resulting in the injury or death of a human being during a specified time frame. You state you have released, or are releasing, some responsive information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.136 of the Government Code. You further state release of this information may implicate the interests of the Jefferson County District Attorney's Office and the Combined Law Enforcement Associations of Texas. Accordingly, you state you notified these third parties of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See Gov't Code § 552.304* (providing that interested party may submit written comments regarding why information should or should not be released). We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the submitted information, which we have marked, is not responsive to the instant request because it does not consist of the requested information. This ruling does not address the public availability of any information that is not responsive

to the request and the department is not required to release such information in response to this request.

Next, you inform us some of the submitted responsive information was at issue in two previous requests for information, in response to which this office issued Open Records Letter Nos. 2007-00695 (2007) and 2014-22940 (2014). In Open Records Letter No. 2007-00695, we determined the department may withhold the submitted information under section 552.108(a)(2) of the Government Code. However, upon review, we find none of the submitted responsive information is the same information as was addressed in Open Records Letter No. 2007-00695. Thus, the department may not rely on Open Records Letter No. 2007-00695 as a previous determination and may not withhold any of the submitted responsive information in accordance with that ruling. *See* Open Records Decision No. 673 at 6-7 (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 information is or is not excepted from disclosure). In Open Records Letter No. 2014-22940, we determined, with the exception of basic information, the department may withhold the information we indicated under section 552.108(a)(2) of the Government Code. We have no indication the law, facts, or circumstances on which that ruling was based have changed. Accordingly, the department may continue to rely on Open Records Letter No. 2014-22940 as a previous determination and withhold or release the identical information in accordance with that ruling. *See* ORD 673 at 6-7. We will address your arguments against release of the submitted responsive information that is not encompassed by Open Records Letter No. 2014-22940.

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). You state the remaining responsive information pertains to cases 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. *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*). We note basic information includes, among other items, an identification and description of the complainant and a detailed description of the offense, but does not include information related to a witness or to a suspect who was not arrested. *See id.* We further note basic information does not

include motor vehicle record information protected by section 552.130 of the Government Code. *See id.* Thus, with the exception of basic information, the department may withhold the remaining responsive information under section 552.108(a)(2) of the Government Code.<sup>1</sup>

We note the basic information contains information that may be subject to section 552.1175 of the Government Code.<sup>2</sup> Section 552.1175 protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. Gov't Code § 552.1175. Section 552.1175 applies, in part, to “peace officers as defined by Article 2.12, Code of Criminal Procedure[.]” *Id.* § 552.1175(a)(1). Thus, if the information we have marked pertains to a currently licensed peace officer and the officer elects to restrict access to his information in accordance with section 552.1175(b), then the department must withhold the information we have marked under section 552.1175 of the Government Code. However, if the individual whose information we have marked is no longer a licensed peace officer or no election is made, then the department may not withhold this information under section 552.1175.

In summary, the department may continue to rely on Open Records Letter No. 2014-22940 as a previous determination and withhold or release the identical information in accordance with that ruling. With the exception of basic information, the department may withhold the remaining responsive information under section 552.108(a)(2) of the Government Code; however, in releasing basic information, the department must withhold the information we have marked under section 552.1175 of the Government Code, if the information we have marked pertains to a currently licensed peace officer and the officer elects to restrict access to his information in accordance with section 552.1175(b) 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 [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

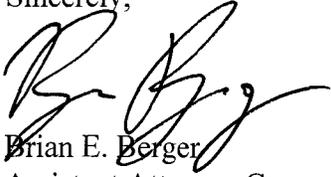
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<sup>1</sup>As our ruling is dispositive, we do not address your other arguments to withhold this information.

<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Brian E. Berger  
Assistant Attorney General  
Open Records Division

BB/akg

Ref: ID# 558643

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Jefferson County District Attorney's Office  
c/o Judi S. Rawls  
Police Administrative Legal Counsel  
Beaumont Police Department  
P.O. Box 3827  
Beaumont, Texas 77704-3827  
(w/o enclosures)

Combined Law Enforcement Associations of Texas  
c/o Judi S. Rawls  
Police Administrative Legal Counsel  
Beaumont Police Department  
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