



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 22, 2015

Ms. Linda Pemberton  
Paralegal  
Office of the City Attorney  
City of Killeen  
P.O. Box 1329  
Killeen, Texas 76540

OR2015-14940

Dear Ms. Pemberton:

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# 572477 (Killeen ID# W016275).

The Killeen Police Department (the "department") received a request for information related to two specified incidents. You state you have released some information to the requestor. You claim the remaining requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor, in his official capacity as an investigator with the California Department of Social Services, asserts he has a right of access to the requested information under sections 1522, 1569.17, and 1596.871 of the California Health and Safety Code. These sections authorize the California Department of Social Services to obtain arrest records or reports from a law enforcement agency as necessary to the performance of its duties associated with licensing individuals who provide care in community care facilities and to the elderly and children. *See generally* Cal. Health & Safety Code §§ 1522(e), 1569.17(e), 1596.871(e). The Act generally does not incorporate the confidentiality or access provisions of other states' statutes and regulations because those laws only govern the disclosure of information held by those states. *But see* Open Records Decision No. 561 at 6-7 (1990) (noting that if agency of federal government shares its information with Texas governmental entity, Texas entity must withhold information that federal agency determined to be confidential under federal law). The submitted information is maintained by the department, which is subject to the state laws of Texas. Thus, although sections 1522, 1569.17, and 1596.871 of the California Health and Safety Code authorize the requestor to perform criminal background checks on individuals applying for various

California licenses, these statutes do not grant the requestor access to records of a Texas governmental body that are excepted from disclosure under the Act. Accordingly, we will address the department's argument against disclosure of 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)(1)(A). You state the submitted information pertains to criminal investigations that concluded in results other than conviction or deferred adjudication. Based on your representation, we agree 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 information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *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 considered to be basic information). Accordingly, with the exception of the basic information, which you state the department has released, the department 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.

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,



Lee Seidlits  
Assistant Attorney General  
Open Records Division

CLS/som

Ref: ID# 572477

Enc. Submitted documents

c: Requestor  
(w/o enclosures)