



April 22, 1999

Ms. E. Cary Grace
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR99-1077

Dear Ms Grace:

You ask this office to partially reconsider its ruling in Open Records Letter No. 99-0642 (1999). Your request was assigned ID# 124826.

The City of Houston Police Department (the "department") received a request for three offense reports. Open Records Letter No. 99-0642 (1999) ruled that one of the requested reports was made confidential by section 261.201(a) of the Family Code and must be withheld in its entirety. With respect to the other two requested reports, however, the decision found that the department had not submitted its request for a decision within ten business days of receiving the written request for information as required by section 552.301 of the Government Code, that the department had failed to show a compelling reason for withholding the information, and that the department therefore must release the reports in question. *See Hancock v. State Bd. Of Ins.*, 797 S.W.2d 379 (Tex. App. – Austin 1990, no writ). In your request for reconsideration, you demonstrate that the department received the request for information on November 20, 1998 and that its December 8, 1998 request for the decision of this office was timely because "all city departments, including administrative offices of the Houston Police Department," were closed on November 26 and 27, 1998. We will, therefore, consider your claims that the two reports in question may be withheld under section 552.108 of the Government Code. Open Records Letter No. 99-0642 (1999) is overruled to the extent of its inconsistency with this decision.

Section 552.108(a)(2) excepts from required public disclosure

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if:

...

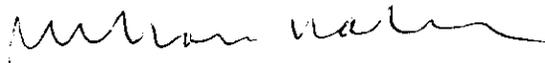
(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Because you have informed us that the reports at issue pertain to closed criminal investigations which did not result in conviction or deferred adjudication, we conclude that you may withhold most of the information at issue at this time pursuant to section 552.108(a)(2).

Section 552.108 does not, however, except from required public disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). Because you have raised no other exception to disclosure, the city must release these types of information in accordance with *Houston Chronicle Publishing Company 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).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



William Walker
Assistant Attorney General
Open Records Division

WMW/eaf

Ref.: ID# 124826

encl: Submitted documents

cc: Mr. Melki Moussa
1100 Hercules, Suite 300
Houston, Texas 77058
(w/o enclosures)