



March 22, 2000

Mr. Lan P. Nguyen  
Assistant City Attorney  
City of Houston  
P.O. Box 1562  
Houston, Texas 77251-1562

OR2000-1118

Dear Mr. Nguyen:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 134635.

The City of Houston (the "city") received a request for documents, radio transmission tapes, and 9-1-1 tapes relating to a fire. You seek to withhold the requested information under sections 552.103 and 552.108 of the Government Code.

Section 552.108(a)(1) 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:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]

You provide an affidavit from the office of the Harris County District Attorney which advises that there is a pending prosecution to which the requested information relates and that disclosure of the information would interfere with that prosecutions. You also advise that the city police and fire departments have ongoing investigations into the matter. Based on these representations, we conclude that, except as noted below, you may withhold the requested information under section 552.108(a)(1).

Please note that section 552.108 does not except from required public disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). 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).

Also, we note that the submitted information appears to contain court records. Information that is also contained in public court records must be released. *See* Gov't Code § 552.022(a)(17). Search warrant affidavits included in the submitted information must also be released if executed. *See* Code Crim. Proc. art 18.01(b).

On the other hand -- and notwithstanding the above -- specific, identifiable information relating to juvenile suspects or defendants which is subject to section 58.007 of the Family Code must be withheld in its entirety. Section 58.007(c) provides in pertinent part:

- (c) Except as provided by Subsection (d), law enforcement records and files concerning a child may not be disclosed to the public and shall be:
  - (1) kept separate from adult files and records; and
  - (2) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

We note that the referenced provisions of subsection (d) of section 58.007 appear to be inapplicable here.

In view of the above disposition of the request, we do not address your section 552.103 claim except to note that the "basic information" and other specifically public information which may not be withheld under section 552.108(a)(1) would also not be protected under section 552.103. *See, e.g.,* Open Records Decision No. 597 (1991).

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

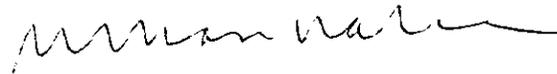
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the

governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



William Walker  
Assistant Attorney General  
Open Records Division

WMW/ljp

Ref: ID# 134635

Encl. Submitted documents

cc: Mr. Chris Hanson  
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