



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 15, 2005

Mr. Loren B. Smith  
Olson & Olson, L.L.P.  
2727 Allen Parkway, Suite 600  
Houston, Texas 77019

OR2005-10275

Dear Mr. Smith:

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# 236295.

The City of Friendswood (the "city"), which you represent, received a request for a copy of all calls and related reports regarding a specified individual and address. You state that some of the responsive information has been or will be released. You claim that the remaining requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses statutory confidentiality provisions. Section 58.005 of the Family Code provides that "[i]nformation obtained for the purpose of diagnosis, examination, evaluation, or treatment or for making a referral for treatment of a child by a public or private agency or institution providing supervision of a child by arrangement of the juvenile court or having custody of the child under order of the juvenile court may be disclosed only to [certain listed individuals]." Fam. Code § 58.005(a). You do not inform us, and the submitted information does not itself reflect, that any of this information was "obtained for the purpose of diagnosis, examination, evaluation, or treatment or for making a referral for treatment of a child." *Id.* We therefore conclude that none of this information is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 58.005 of the Family Code.

You also claim that the submitted information in Exhibit B is excepted from disclosure under section 552.101 in conjunction with section 58.007 of the Family Code. Juvenile law

enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. Section 58.007(c) reads as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

Fam. Code § 58.007(c). Section 58.007 is not applicable to information that relates to a juvenile as a complainant, victim, witness, or other involved party and not as a suspect or offender. Two call reports in Exhibit B (numbers 042700077 and 042700055) do not identify a juvenile suspect or offender. Thus, this information is not confidential under section 58.007, and it may not be withheld from disclosure under section 552.101 of the Government Code on that basis. However, we find that the remaining information contained in Exhibit B involves juvenile conduct that occurred after September 1, 1997. None of the exceptions in section 58.007 apply in this instance. Therefore, the remaining information in Exhibit B must be withheld under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

We now turn to your claim regarding section 552.108 of the Government Code. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. Based on the information you provided, we understand you to assert that the requested information contained in Exhibits A and C pertain to cases that concluded in a result other than conviction or deferred adjudication. Therefore, we agree that section 552.108(a)(2) is applicable.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 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). Thus, with the exception of the basic front page

offense and arrest information, the city may withhold the submitted information in Exhibits A and C from disclosure based on section 552.108(a)(2). We note that the city has the discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov't Code § 552.007.

Section 552.147 of the Government Code provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act.<sup>1</sup> Therefore, the city must withhold the social security numbers of the arrestees we have marked in the submitted information under section 552.147.<sup>2</sup>

In summary, the city must release call report numbers 042700077 and 042700055. The remaining information contained in Exhibit B must be withheld from disclosure under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. The city may withhold, with the exception of basic information, the submitted information in Exhibits A and C pursuant to section 552.108 of the Government Code. The city must withhold the social security numbers of arrestees we have marked pursuant to section 552.147 of the Government Code. The remaining information must be released.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the

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<sup>1</sup>Added by Act of May 23, 2005, 79th Leg., R.S., S.B. 1485, ch. 397, 2005 Tex. Sess. LawServ. 1091 (Vernon) (to be codified at Tex. Gov't Code § 552.147).

<sup>2</sup>We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

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,



Candice M. De La Garza  
Assistant Attorney General  
Open Records Division

CMD/krl

Ref: ID# 236295

Enc. Submitted documents

c: Mr. Jerry P. Larsen  
712 Essex Street  
Friendswood, Texas 77546  
(w/o enclosures)