



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 20, 2009

Ms. YuShan Chang  
Assistant City Attorney  
City of Houston  
P.O. Box 1562  
Houston, Texas 77251-1562

OR2009-00769

Dear Ms. Chang:

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# 332721.

The City of Houston (the "city") received a request for ten specified cases, warrants pertaining to the requestor, and a receipt. You state that some responsive information related to request items 3-10 will be provided to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Initially, we note that you did not submit information responsive to items 1 and 2 of the request for our review. Further, you have not indicated that such information does not exist or that you wish to withhold any such information from disclosure. Therefore, to the extent information responsive to items 1 and 2 of the request exists, we assume that you have released it to the requestor. If you have not released any such information, you must release it to the requestor at this time. *See* Gov't Code §§ 552.301(a), .302; Open Records Decision No. 664 (2000) (noting that if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible under circumstances).

Next, we address the requestor's assertion that the city did not comply with section 552.301(b) of the Government Code in requesting a ruling from this office. Pursuant to section 552.301 of the Government Code, a governmental body has certain procedural obligations when it receives a written request for information that it wishes to withhold. Under section 552.301(b), a governmental body that wishes to withhold information from public disclosure must request a ruling from this office not later than the tenth business day after the date of receiving the written request. *Id.* § 552.301(b).

You state that the city received the request for information on October 23, 2008. The city's request for a ruling from this office was postmarked November 6, 2008, the tenth business day following receipt of the request for information. Accordingly, we conclude that the city complied with section 552.301 in requesting this ruling. Therefore, we will address your arguments.

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. Section 552.101 encompasses information protected by other statutes such as former section 51.14 of the Family Code. Prior to its repeal by the Seventy-Fourth Legislature, section 51.14(d) provided for the confidentiality of juvenile law enforcement records. *See* Open Records Decision No. 181 (1977) (concluding that former section 51.14(d) of the Family Code excepts police reports which identify juvenile suspects or furnish basis for their identification). Law enforcement records pertaining to juvenile conduct occurring before January 1, 1996 are governed by former section 51.14(d), which was continued in effect for that purpose. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2591. Section 51.14 only applies to records of a "child," which is defined as a person who is ten years of age or older and under seventeen years of age. *See* Fam. Code § 51.02(2). In this instance, Exhibit 2 consists of an incident report involving juvenile conduct that occurred in February of 1991. Therefore, Exhibit 2 is confidential under former section 51.14 of the Family Code and must be withheld under section 552.101 of the Government Code. *See id.* § 51.04(a) (Title 3 covers cases involving delinquent conduct or conduct indicating need for supervision engaged in by a child).

Although you also assert that Exhibit 8 is confidential under former section 51.14, upon review we find that Exhibit 8 does not identify a juvenile as a criminal suspect or offender. We note that section 51.14 applies to information that involves a juvenile suspect or offender, but does not apply where the information in question involves only a juvenile complainant or witness. Therefore, we conclude that Exhibit 8 cannot be withheld under section 552.101 in conjunction with section 51.14 of the Family Code.

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. 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. You state that Exhibits 3, 4, and 5 relate to criminal investigations that have concluded in results other than conviction or deferred adjudication. Based on your representations and our review, we find that section 552.108(a)(2) is applicable to Exhibits 3, 4, and 5. You further inform us that Exhibit 7 is related to an investigation that involved four suspects, one of whom was convicted. You also explain, and your documentation reflects, that the charges against the other suspects were declined. You contend that the information relating to the convicted individual and the individuals against whom the charges were declined is so intertwined that it cannot be easily separated and that release of information relating to the convicted individual would reveal information relating to the individuals against whom the charges were declined. Based on your representations and our review, we agree that the information cannot be separated. Accordingly, we conclude that section 552.108(a)(2) is also applicable to Exhibit 7.

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, which you state will be released, you may withhold Exhibits 3, 4, 5, and 7 from disclosure based on section 552.108(a)(2) of the Government Code.

You seek to withhold portions of the remaining information under section 552.130 of the Government Code, which excepts from public disclosure information that relates to

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130(a). Accordingly, the city must withhold the Texas motor vehicle record information you have highlighted, as well as the information we have marked, in Exhibits 6 and 8 under section 552.130.

Exhibit 4 contains the social security number of an arrestee. 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> Gov't Code § 552.147. Therefore, the city may withhold the social security number marked in Exhibit 4 pursuant to section 552.147.

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<sup>1</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 officer under the Act.

In summary, Exhibit 2 is confidential under former section 51.14 of the Family Code and must be withheld under section 552.101 of the Government Code. With the exception of basic information, which you state will be released, the city may withhold Exhibits 3, 4, 5, and 7 under section 552.108(a)(2) of the Government Code. The city must withhold the Texas motor vehicle record information you have highlighted, as well as the information we have marked, in Exhibits 6 and 8 under section 552.130. The city may withhold the marked social security number in Exhibit 4 under section 552.147 of the Government Code. The remaining information must be released to the requestor. As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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 more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/jb

Ref: ID# 332721

Enc. Submitted documents

c: Requestor  
(w/o enclosures)