



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 4, 2011

Mr. Scott A. Durfee  
Assistant General Counsel  
Harris County District Attorney's Office  
1201 Franklin, Suite 600  
Houston, Texas 77002

OR2011-14288

Dear Mr. Durfee:

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# 431771.

The Harris County District Attorney's Office (the "district attorney") received a request for all records pertaining to a specified investigation involving Houston Community College ("HCC"), the requestor, and seven other named individuals. You claim the 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, some of which is a representative sample.<sup>1</sup> We have also received and considered comments submitted by a representative of HCC, who claims the requested information is excepted from disclosure under sections 552.107 and 552.108 of the Government Code. *See Gov't Code § 552.304* (interested party may submit written comments regarding availability of requested information).

Initially, we note the submitted information contains agendas and minutes of public meetings of HCC's Board of Trustees. The agendas and minutes of a governmental body's public meetings are specifically made public under provisions of the Open Meetings Act, chapter 551 of the Government Code. *See id.* §§ 551.022 (minutes and tape recordings of open meeting are public records and shall be available for public inspection and copying on request to governmental body's chief administrative officer or officer's designee), .041

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<sup>1</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and, therefore, does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

(governmental body shall give written notice of date, hour, place, and subject of each meeting), .043 (notice of meeting of governmental body must be posted in place readily accessible to general public for at least 72 hours before scheduled time of meeting). As a general rule, the exceptions to disclosure found in the Act, such as sections 552.107 and 552.108, do not apply to information other statutes make public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Therefore, the district attorney must release the submitted public meeting agendas and minutes, which we have marked, pursuant to section 551.022 of the Government Code.

We also note the submitted information contains a resolution of HCC's Board of Trustees. Because laws and ordinances are binding on members of the public, they are matters of public record and may not be withheld from disclosure under the Act. *See* Open Records Decision No. 221 at 1 (1979) (“official records of the public proceedings of a governmental body are among the most open of records”); *see also* Open Records Decision No. 551 at 2-3 (1990) (laws or ordinances are open records). The submitted resolution is analogous to an ordinance. Accordingly, the district attorney must release the submitted resolution, which we have marked.

Section 552.108(a)(2) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . 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[.]” Gov't Code § 552.108(a)(2). Section 552.108(a)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in a conviction or deferred adjudication. A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A). You state the remaining requested information pertains to a concluded criminal investigation conducted by the district attorney that did not result in a conviction or deferred adjudication. Based on your representations and our review, we agree section 552.108(a)(2) is applicable to the information at issue.

Section 552.108, however, 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). *See* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the district attorney may withhold the remaining requested information under section 552.108(a)(2) of the Government Code.

In summary, the district attorney must release the public meeting agendas and minutes we have marked pursuant to section 551.022 of the Government Code. The district attorney

must release the submitted resolution we have marked. With the exception of basic information, the district attorney may withhold the remaining requested information under section 552.108(a)(2) of the Government Code.<sup>2</sup>

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.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, toll free, at (888) 672-6787.

Sincerely,



Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/dls

Ref: ID# 431771

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Ms. Jessica L. Saldivar  
Assistant General Counsel  
Houston Community College  
3100 Main Street  
Houston, Texas 77002  
(w/o enclosures)

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<sup>2</sup>As our ruling is dispositive, we need not address HCC's arguments against disclosure.