



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 4, 2014

Mr. Gary A. Scott  
City of Conroe  
P.O. Box 3066  
Conroe, Texas 77305

OR2014-09534

Dear Mr. Scott:

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# 524755.

The City of Conroe (the "city") received a request for a specified police report. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the submitted information relates to a criminal case that concluded in a result other than conviction or deferred adjudication. Based on your representation and our review of the submitted information, we conclude that section 552.108(a)(2) is applicable to this information.

We note, and you acknowledge, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *Id.* § 552.108(c). Section 552.108(c) refers to the basic “front-page” 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 deemed public by *Houston Chronicle*). We note basic information does not include information subject to section 552.130 of the Government Code. *See id.* at 3-4. Therefore, with the exception of basic information, which you state has been released, the city may generally withhold the submitted information under section 552.108(a)(2) of the Government Code.<sup>1</sup>

We note the requestor is a representative of a foster agency who states she is requesting the submitted information on behalf of the Texas Department of Family and Protective Services (“DFPS”). Section 411.114 of the Government Code allows, among other things, for DFPS to obtain criminal history record information (“CHRI”) concerning an individual who is “providing or applying to provide in-home, adoptive, or foster care for children in the care of [DFPS] and other persons living in the residence in which the child will reside[.]” *See* Gov’t Code § 411.114(a)(4), (a)(2)(G). CHRI consists of “information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions.” *See id.* § 411.082(2).

In this instance, the requestor does not state whether the individual who is the subject of the submitted information is an individual subject to subsection 411.114(a)(2)(G) of the Government Code. Therefore, we are unable to conclude that section 411.114 of the Government Code gives the requestor a right of access to any of the submitted information and must rule conditionally. *See id.* § 411.114; *see also id.* § 411.082(2). Accordingly, if the individual to whom the submitted information pertains is providing or applying to provide in-home, adoptive, or foster care for a child in the care of DFPS, or is another person living in the residence in which such a child will reside, then the city must release information that shows the types of allegation made and whether there was an arrest, information, indictment, detention, conviction, or other formal charges and their dispositions. *See* Open Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). The city must also release the basic information. However, the remaining information may be withheld under section 552.108(a)(2) of the Government Code. If the individual who is the subject of the

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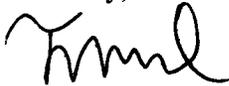
<sup>1</sup>Because our ruling is dispositive, we do not address your remaining argument against disclosure of this information except to note that although basic information includes an arrestee’s social security number, section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act. Gov’t Code § 552.147(b).

submitted information is not providing or applying to provide such care, or is not another person living in the residence in which such a child will reside, then, except for basic information, the city may withhold the submitted information under section 552.108(a)(2) of the Government Code.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Tim Neal  
Assistant Attorney General  
Open Records Division

TN/bhf

Ref: ID# 524755

Enc. Submitted documents

c: Requestor  
(w/o enclosures)