



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 3, 2014

Mr. Daniel Ortiz  
Assistant City Attorney  
City of El Paso  
P.O. Box 1890  
El Paso, Texas 79950-1890

OR2014-15479

Dear Mr. Ortiz:

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# 533010 (City ORR# 14-1026-4414).

The El Paso Police Department (the "department") received a request for information relating to a specified incident and a named individual. You state you have released some information to the requestor. You claim the submitted 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.<sup>1</sup>

Initially, we note the requestor is an investigator with the California Department of Social Services. Also, we understand the requestor to assert she has a right of access to the requested information under sections 1522, 1569.17, and 1596.871 of the California Health and Safety Code. These sections authorize the California Department of Social Services to obtain arrest records or reports from a law enforcement agency as necessary to the performance of its duties associated with licensing individuals who provide care in

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<sup>1</sup>Although you raised section 552.101 of the Government Code in conjunction with common-law privacy and constitutional privacy, you have not submitted arguments explaining how common-law or constitutional privacy applies to the submitted information. Therefore, we assume you have withdrawn these claims. See Gov't Code §§ 552.301, .302.

community care facilities and to the elderly and children. *See generally* CAL. HEALTH & SAFETY CODE §§ 1522(e), 1569.17(e), 1596.871(e). The Act generally does not incorporate the confidentiality or access provisions of other states' statutes and regulations because those laws only govern the disclosure of information held by those states. *But see* Open Records Decision No. 561 at 6-7 (1990) (noting that if agency of federal government shares its information with Texas governmental entity, Texas entity must withhold information that federal agency determined to be confidential under federal law). The submitted information is maintained by the department, which is subject to the state laws of Texas. Thus, although sections 1522, 1569.17, and 1596.871 of the California Health and Safety Code authorize the requestor to perform criminal background checks on individuals applying for various California licenses, these statutes do not grant the requestor access to records of a Texas governmental body that are excepted from disclosure under the Act. Accordingly, we will address the department's argument against disclosure of the submitted information.

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. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has 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 pertains to a case that concluded in a result other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to the submitted information.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 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 basic information, the department may withhold the submitted information pursuant to 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,

A handwritten signature in black ink, appearing to read 'Cristian Rosas-Grillet', written in a cursive style.

Cristian Rosas-Grillet  
Assistant Attorney General  
Open Records Division

CRG/dls

Ref: ID# 533010

Enc. Submitted documents

c: Requestor  
(w/o enclosures)