



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 31, 2006

Ms. Janis Kennedy Hampton
Assistant City Attorney
City of Bryan
P. O. Box 1000
Bryan, Texas 77805

OR2006-03244

Dear Ms. Hampton:

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# 245360.

The Bryan Police Department (the "department") received a request for 22 categories of information relating to two named individuals. You state that some of the requested information has been released, but claim that the submitted 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 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. Prior to its repeal by the Seventy-fourth Legislature, section 51.14(d) of the Family Code provided for the confidentiality of juvenile law enforcement records.¹ Law enforcement records pertaining to conduct occurring before January 1, 1996 are governed by the 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 (Vernon). The information in Exhibit C relates to juvenile conduct that occurred before January 1, 1996. Therefore, it must be

¹ Although you argue that the requested information is confidential pursuant to section 58.007, that section applies only to records relating to conduct that occurred on or after September 1, 1997. Because the conduct at issue in case number 92-111333 occurred in 1992, we address it under section 51.14.

withheld in its entirety under section 552.101 of the Government Code in conjunction with former section 51.14 of the Family Code.

You contend that Exhibit B may be withheld pursuant to section 552.108 of the Government Code. Section 552.108(a)(2) excepts from disclosure information concerning a criminal 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 inform us that this information pertains to an investigation that did not result in conviction or deferred adjudication. Based on your representations and our review of the submitted information, we agree that section 552.108(a)(2) is applicable to this report.

However, section 552.108 does not except basic information about an arrested person, an arrest, or a crime. See Gov't Code § 552.108(c); *Houston Chronicle Publ'g 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). We believe such basic information refers to the information held to be public in *Houston Chronicle*, including a detailed description of the offense. See 531 S.W.2d at 186-87. Thus, the department must release the types of information that are considered to be front page information, even if this information is not actually located on the front page of an offense report. See Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). Other than basic information, the department may withhold this information pursuant to section 552.108(a)(2).

In summary, Exhibit C is confidential under former section 51.14(d) of the Family Code and must be withheld from disclosure pursuant to section 552.101 of the Government Code. With the exception of basic information, which must be released, the department may withhold the rest of the submitted information under section 552.108(a)(1).

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 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,



Brian J. Rogers
Assistant Attorney General
Open Records Division

BJR/krl

Ref: ID# 245360

Enc. Submitted documents

c: Mr. Paul W. Murphy
3131 Briarcrest Drive, Suite 111
Bryan, Texas 77802
(w/o enclosures)