



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 17, 2017

Mr. John A. Haislet
Senior Assistant City Attorney
City of College Station
P.O. Box 9960
College Station, Texas 77842

OR2017-03713

Dear Mr. Haislet:

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# 647601 (ORR# A16-001744).

The College Station Police Department (the "department") received a request for information pertaining to two named persons. The department states it has released some of the requested information, but claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the claimed exception and reviewed 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 information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). The department states the submitted information pertains to cases that concluded in results other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to this information.

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). *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the department may generally withhold the submitted information under section 552.108(a)(2) of the Government Code.

However, we note the requestor states she is conducting a court-ordered social study of the named individuals. Accordingly, the requestor may have a right of access to criminal history record information (“CHRI”) within the submitted records pursuant to section 411.1285 of the Government Code. Section 411.1285(a) provides,

A domestic relations office created under Chapter 203, Family Code, is entitled to obtain from the [Texas Department of Public Safety (“DPS”)] [CHRI] that relates to a person who is a party to a proceeding in which the domestic relations office is providing services permitted under Chapter 203, Family Code, or a person involved in a child custody evaluation under Chapter 107, Family Code, in which the domestic relations office has been appointed to conduct the child custody evaluation.

Gov’t Code § 411.1285(a); *see also id.* chs.107 (governing child custody evaluations), 203 (governing administration of domestic relations offices). CHRI means “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.” *Id.* § 411.082(2). Pursuant to section 411.087 of the Government Code, an agency entitled to obtain CHRI from DPS also is authorized to “obtain from any other criminal justice agency in this state [CHRI] maintained by that [agency].” *Id.* § 411.087(a)(2). Thus, a domestic relations office may receive CHRI if it relates to a person who is a party to a proceeding in which the domestic relations office is providing services permitted under chapter 203 of the Family Code, or a person involved in a child custody evaluation under chapter 107 of the Family Code, in which the domestic relations office has been appointed to conduct the child custody evaluation. *See id.* § 411.1285(a); *see also* Open Records Decision No. 655 (1997) (discussing limitations on release of CHRI).

The submitted information contains CHRI pertaining to one of the named individuals. We note a specific statutory right of access overcomes the general exceptions in the Act, such as section 552.108. *See* Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). Therefore, if the department determines the named individual at issue is a party to a proceeding in which the domestic relations office is providing services permitted under chapter 203 of the Family Code or is involved in a child custody evaluation under chapter 107 of the Family Code, then the department must release the CHRI pertaining to that individual pursuant to section 411.087(a)(2) of the Government Code. *See* Gov’t Code §§ 411.083(c), .087(a)(2).

To conclude, with the exception of basic information, which the department must release, the department may withhold the submitted information under section 552.108(a)(2) of the Government Code. However, if the department determines the named individual at issue is a party to a proceeding in which the domestic relations office is providing services permitted under chapter 203 of the Family Code or is involved in a child custody evaluation under chapter 107 of the Family Code, then the department must also release the CHRI pertaining to that individual pursuant to section 411.087(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, 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,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/bw

Ref: ID# 647601

Enc. Submitted documents

c: Requestor
(w/o enclosures)