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## PUBLIC INFORMATION CHECK LIST

### “Front Page” Law Enforcement Information

*This is not a complete and exhaustive list.*

*03/25/2009*

#### **YES: Release**

With respect to the Offense Report there is a constitutionally protected right of the press and public to the front page (or an exact copy thereof) structured to include the following:

- The name, age (date of birth), address, race, sex, occupation, alias, police department identification number, and physical condition of the arrested person.
- The date and time of the arrest.
- The place of the arrest.
- The offense charged and the court in which it is filed.
- The details of the arrest.
- Booking information.
- The notation of any release or transfer.
- Bonding information.
- The location of the crime.
- The identification and description of the complainant (including date of birth).
- The premises involved.
- The time of occurrence of the crime.
- The property involved, if any.
- The vehicles involved, if any.
- A description of the weather.

- A detailed description of the offense.
- The names of the arresting and investigating officers.

*Houston Chronicle Pub. Co. v. City of Houston*, 531 S.W.2d 177, 186-187 (TexCivApp-Hous (14 Dist.) 1975), writ. ref'd n.r.e. per curium, 536 S.W.2d 559 (Tex. 1976).

**ALSO Release:**

- A “mug shot,” unrelated to any **active** criminal investigation, taken in connection with an arrest for which an arrestee subsequently was convicted and is serving time. Op. Tex. Att’y Gen. No. ORD 616 (1993).
- Records held by law enforcement agencies regarding violence between family members unless the information is highly intimate and embarrassing and of no legitimate public interest. Op. Tex. Att’y Gen. No. ORD 611 (1992).
- DWI test results, unless GOV’T CODE § 552.103 applies.
- The attorney general has concluded that, with the exception of victims of sexual assault, section 552.101 does not categorically except from required public disclosure, on common law privacy grounds, the names of crime victims. Op. Tex. Att’y Gen. Nos. ORD 409 at 2 (1984) and ORD 628 (1994).
- All information contained in either an adult or juvenile sex offender registration form and subsequently entered into the Department of Public Safety database is public information and must be released upon written request, except for the registrant’s social security number, driver’s license number, and telephone number, and any information that on its face would directly reveal the identity of the victim. CODE CRIM. PROC. art 62.08 and Op. Tex. Att’y Gen. No. ORD 645 at 3 (1996).

**NO: Do Not Release:**

With the exception of the above, you **can withhold** information that deals with the detection, investigation, and prosecution of crime, GOV’T CODE § 552.108, or relating to pending litigation of a civil or criminal nature, to which the subdivision may be a party. GOV’T CODE § 552.103.

This right of access does **not** extend to such matters as:

- Synopsis of a purported confession,
- Officers' speculations of a suspect's guilt,
- Officers' views as to the credibility of witnesses,

- Statements by informants,
- Ballistics reports,
- Fingerprint comparisons, or
- Blood and other laboratory tests.

*Houston Chronicle Pub. Co.*, 531 S.W.2d at 186-187.

**ALSO: Do Not Release:**

The right of access does not extend to:

- Child abuse or neglect information:
  - (1) A report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
  - (2) Files, reports, records, communications, audiotapes, video tapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation. FAMILY CODE § 261.201.

**Note:** A parent or guardian is NOT authorized to receive these records from the City; they should make their request to the Department of Family and Protective Services.
- Social Security Numbers. GOV'T CODE § 552.147 and 42 U.S.C. § 405(c)(2)(C)(vii).
- Highly embarrassing and extremely intimate information in which the public does not have a legitimate interest (Ex: workplace abuse, illegitimacy, pregnancy, suicide attempt). *Industrial Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), cert. denied.
- Identifying data of juvenile crime victims (maybe). Op. Tex. Att'y Gen. No. 628.
- Identifying data of juvenile offender (except to military personnel with the permission of the juvenile). FAMILY CODE §§ 58.007 and 58.106.
- Identifying data of victims of sexual assault. Op. Tex. Att'y Gen. No. 339.
- Sexual harassment victim and witness information. *Morales v. Ellen*, 840 S.W.2d 519 (Tex.App.---El Paso 1992, writ denied).
- Identifying data of informants and witnesses. § 552.108, Op. Tex. Att'y Gen. Nos. ORD 329 (1982) and 434 (1986); *Roviaro v. United States*, 353 U.S. 53, 59 (1957).
- Identity of undercover police officers. GOV'T CODE § 552.108, Op. Tex. Att'y Gen.

- Identity, photographs, home addresses, social security numbers, and telephone numbers of current and former peace officers and family members, and even whether or not an officer has family members. §552.117, Op. Tex. Att’y Gen. No. OR94-082 (1994).
- Addresses of city employees who have filed a privacy request form.
- Email addresses of citizens. GOV'T CODE § 552.137.
- TX I.D. or drivers license number, class, and expiration date, VIN number, license plate number, vehicle registration number, class, and expiration date. GOV'T CODE § 552.130.
- In rare circumstances, a governmental body may demonstrate the existence of special circumstances that overcome the presumption of public access to the complainant’s identity. Op. Tex. Att’y Gen. No. OR97-2332 (1997).
- Certain information related to terrorism. GOV'T CODE §§ 418.176 - 418.182.
- Originating telephone numbers and addresses furnished on a call-by-call basis by a service supplier to a 9-1-1 emergency communication district are confidential. HEALTH & SAFETY CODE § 772(D).
- A photograph that depicts a peace officer, the release of which would endanger the life or physical safety of the officer is generally excepted from the requirements of GOV'T CODE § 552.101. See GOV'T CODE § 552.119 for exceptions.
- The name, home address, business, address, home telephone number, or telephone number of individual participants in a neighborhood crime watch program. Op. Tex. Att’y Gen. No. OR99-2830 (1999).

## **GOVERNMENT PERSONNEL RECORDS:**

### ***Redact:***

- Criminal history records or information that shows they were a suspect or arrested. GOV'T CODE § 411.083.
- Records created by a mental health professional. HEALTH & SAFETY CODE § 611.002.
- Employment Eligibility Verification (Form I-9) and attachments (SS#, DL). 8 U.S.C. § 1324(a).
- Polygraph exams. OCC. CODE §1703.306.

- Tax return information, W-2's, W-4's. 26 U.S.C. § 6103(a).
- Information about medical conditions, operations, prescriptions. ADA.
- Reference to the person having ADA disabilities or limitations or that accommodations were/are made.
- Communications with or medical records created by a physician. Title 3, B OCC. CODE.
- Financial information, credit history, beneficiary designations, direct deposit request. Common Law. (Does not apply to salary amount or amount of benefits paid by this employer, which is public).
- Test questions, items, or exercises the release of which could compromise future tests. GOV'T CODE § 552.122.
- Bank account numbers, credit card numbers, PIN's, and insurance policy numbers. GOV'T CODE § 552.136.
- Military discharge record, Form DD-214 received after 9-1-2003. GOV'T CODE § 552.140.
- L-2 and L-3 Declarations of Medical Conditions, Psychological and Emotional Health for Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE). OCC. CODE § 1701.306.
- F-5 Report of Resignation or Separation of License Holder addressed to TCLEOSE. OCC. CODE § 1701.454.
- The gross salary before deductions is public, after deduction amounts should be redacted. Op. Tex. Att'y Gen. No. GA-0572.

***REQUESTS OUTSIDE THE PUBLIC INFORMATION ACT- CONTACT THE CITY ATTORNEY***

*(Whether to release depends on statutes):*

***Interagency Requests*** – For instance, a criminal justice agency, such as the FBI, may receive criminal justice history information not available to the public if they are using the information for a proper purpose, but may not receive a confidential child abuse report. GOV'T CODE § 411.087(a)(2), OR2003-6538; *See* OR2005-00939; OR2003-679. *See also*, FAMILY CODE § 58.106 (may release juvenile records only to certain entities).

***Subpoenas*** – City Attorney may need to file objections or motions if information is confidential. For instance, if a child abuse report is subpoenaed, the City must submit the records for in

camera review and may not release the records unless a written order is issued by the judge after making particular findings. FAMILY CODE § 261.201.

***Internal Requests—(see Public Access regarding a council person’s right to see all info)***

*This is provided to you as educational material only and is not intended to be legal advice.*

*This is not a complete and exhaustive list.*

*You are encouraged to discuss this issue with your attorney.*