



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 19, 1998

Ms. Kristi A. Taylor  
Assistant City Attorney  
Neiman & Barnes, L.L.P.  
P.O. Box 777  
Lewisville, Texas 75067

OR98-1248

Dear Ms. Taylor:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 115647.

The Lewisville Police Department (the "department"), which you represent, received a request for a copy of report number 97-7745. You have released the front page offense report information and the victim's statement. You claim that the remaining requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code and sections 552.103 and 552.108 of the Government Code. We have considered your arguments 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." The Seventy-fifth Legislature passed House Bill 1550<sup>1</sup> which amends the Family Code and in part overrules Open Records Decision No. 644 (1996). Open Records Decision No. 644 (1996) holds that section 58.007 of the Family Code does not make confidential juvenile law enforcement records concerning juvenile conduct occurring on or after January 1, 1996, that are maintained by law enforcement agencies. Juvenile offender records held by law enforcement agencies are now expressly confidential under section 58.007(c) of the Family Code. However, section 58.007(c) only applies to juvenile law enforcement records concerning conduct that occurred on or after September 1, 1997. The relevant language of amended Family Code section 58.007(c) reads as follows:

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<sup>1</sup>Act of June 2, 1997, H.B. 1550, 75th Leg., R.S.

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child may not be disclosed to the public and shall be:

- (1) kept separate from adult files and records; and
- (2) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

Open Records Decision No. 644 (1996) still applies to records concerning juvenile conduct that occurred from January 1, 1996 to August 31, 1997. Section 58.007(c) of the Family Code only applies to juvenile law enforcement records concerning juvenile conduct occurring on or after September 1, 1997, that are maintained by law enforcement agencies. Juvenile law enforcement records concerning conduct that occurred before January 1, 1996, are governed by former section 51.14(d) of the Family Code, which is continued in effect for that purpose. Act of June 2, 1997, H.B. 1550, 75<sup>th</sup> Leg., R.S.

Here, the requested information involves juvenile conduct that occurred on August 17, 1997. Thus, the holding in Open Records Decision No. 644 (1996) that former section 58.007 of the Family Code does not make confidential juvenile law enforcement records concerning juvenile conduct occurring on or after January 1, 1996, that are maintained by law enforcement agencies applies in this instance. Accordingly, you may not withhold the requested information under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

Section 552.108, the "law enforcement exception," excepts from public disclosure information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime if release of the information would interfere with the detection, investigation or prosecution of crime. Gov't Code § 552.108(a)(1). Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the investigation remains active, and that the "offense is currently set for a trial before a jury and any release of this information would unduly interfere with the prosecution of this case." Accordingly, we find that release of the requested information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.3d 177 (Tex. Civ. App.--Houston [14th dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, the requested information is excepted from disclosure under section 552.108(a)(1). Although section 552.108(a)(1) authorizes you to withhold the requested information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See Gov't Code* § 552.007.

As we have resolved the matter under section 552.108, we need not address your section 552.103 claim. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

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Ref.: ID# 115647

Enclosures: Submitted documents

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(w/o enclosures)