



October 6, 1999

Mr. Tommy W. Lueders II  
Assistant City Attorney  
City of Midland  
P.O. Box 1152  
Midland, Texas 79702-1152

OR99-2837

Dear Mr. Lueders:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 128740.

The City of Midland received a request for incident report number 9907040005. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code as well as section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. We have considered the exceptions you claim and reviewed the submitted information.

We disagree with your argument concerning section 58.007 of the Family Code. Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Therefore, section 552.101 encompasses confidentiality provisions such as Family Code section 58.007. Section 58.007 of the Family Code makes confidential juvenile law enforcement records relating to delinquent conduct or conduct indicating a need for supervision. *See* Fam. Code § 51.03. The incident report in question does not involve records of a juvenile engaging in delinquent conduct or conduct indicating a need for supervision.<sup>1</sup> Therefore, section 58.007 of the Family Code, as encompassed by section 552.101 of the Government Code, is inapplicable to the requested incident report.

However, we find that some of the requested information is excepted from disclosure under section 552.108(a)(1) of the Government Code. Section 552.108(a)(1) excepts from disclosure "[i]nformation 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." You state that the requested incident report relates to an ongoing criminal case. Based upon this representation, we conclude that the release of the report would interfere with the detection, investigation,

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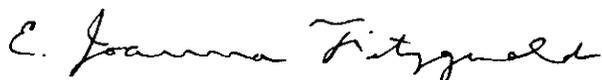
<sup>1</sup>Moreover, section 51.02(2)(A) of the Family Code defines "child" as a person who is ten years of age or older and under seventeen years of age. The report at issue also does not pertain to the conduct of a "child" as that term is defined by section 51.02(2).

or prosecution of crime. See *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) (court delineates law enforcement interests that are present in active cases).

We note, however, that information normally found on the front page of an offense report is generally considered public. See generally 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); Open Records Decision No. 127 (1976). Thus, you must release the type of information that is considered to be front page offense report information, even if this information is not actually located on the front page of the requested arrest report. Although section 552.108(a)(1) authorizes you to withhold the remaining 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.

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 upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



E. Joanna Fitzgerald  
Assistant Attorney General  
Open Records Division

EJF\nc

Ref: ID# 128740

Encl: Submitted documents

cc: Mr. Richard Russell  
117 S. Dewberry  
Midland, Texas 79703  
(w/o enclosures)