



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 16, 2007

Ms. D. Armstrong  
Administrative Assistant-Criminal Division  
Hood County Sheriff's Office  
400 North Gordon  
Granbury, Texas 76048

OR2007-04193

Dear Ms. Armstrong:

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# 276086.

The Hood County Sheriff's Office (the "sheriff") received a request for (1) "discovery on case number W62998" and (2) all reports made by or against the requestor, his spouse, and his son "dating back to June of 2005." You state that some responsive information has been released to the requestor. You indicate that you have referred the requestor to the prosecuting attorney in regards to the request for discovery.<sup>1</sup> You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. We also understand you to raise section 552.101 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public 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 another statute makes confidential. You raise section 552.101 in conjunction with section 58.007 of the Family Code. Section 58.007(c) provides as follows:

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<sup>1</sup>We note that, under the Act, "[a] subpoena duces tecum or a request for discovery that is issued in compliance with a statute or a rule of civil or criminal procedure is not considered to be a request for information[.]" Gov't Code § 552.0055. Discovery is directly addressed by section 552.0055. Therefore, the request for discovery is not a request for information for purposes of the Act.

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

Fam. Code § 58.007(c). Section 58.007(c) is applicable to records of juvenile conduct that occurred on or after September 1, 1997. *See* Act of June 2, 1997, 75<sup>th</sup> Leg., R.S., ch. 1086, §§ 20, 55(a), 1997 Tex. Gen. Laws 4179, 4187, 4199; Open Records Decision No. 644 (1996). The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See* Fam. Code § 51.02(2) (defining “child” for purposes of Fam. Code tit. 3). Section 58.007 is not applicable to information that relates to a juvenile as a complainant, victim, witness, or other involved party and not as a suspect or offender.

You contend that some of the submitted information is confidential under section 58.007(c). Having considered your arguments and reviewed the submitted information, we find that case numbers S0518256 and S0604368 involve juvenile conduct that occurred after September 1, 1997. It does not appear that any of the exceptions in section 58.007 apply; therefore, case numbers S0518256 and S0604368 are confidential pursuant to section 58.007(c) of the Family Code, and the sheriff must withhold these records under section 552.101 of the Government Code. We have marked that information accordingly. We find, however, that none of the remaining information at issue is confidential under section 58.007, and the sheriff may not withhold any of it under section 552.101 on that basis.

Next, we address your claim under section 552.108 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[.]” Gov’t Code § 552.108(a)(1). Section 552.108(a)(1) is applicable when release of the information at issue would interfere with a pending criminal investigation or prosecution. *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). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us that case numbers S0620472 and S0621619 are pending criminal cases. Based on your representations and our review of the submitted information, we find that section 552.108(a)(1) is applicable to case numbers S0620472 and S0621619. *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 that section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. The sheriff must release basic information, including detailed descriptions of the offenses, even if this information does not literally appear on the front page of an offense or arrest report. *See Houston Chronicle*, 531 S.W.2d at 186-87; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). The sheriff may withhold the remaining information in case numbers S0620472 and S0621619 under section 552.108 of the Government Code.

In summary: (1) the sheriff must withhold case numbers S0518256 and S0604368 under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code; and (2) except for the basic information that must be released under section 552.108(c), the sheriff may withhold case numbers S0620472 and S0621619 under section 552.108 of the Government Code. The rest of the submitted information must be released.<sup>2</sup>

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

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<sup>2</sup>Some of the documents marked for release contain or consist of confidential information that is not subject to release to the general public. *See* Gov’t Code § 552.352. However, the requestor in this instance has a special right of access to the information. Gov’t Code § 552.023. Because some of the information is confidential with respect to the general public, if the sheriff receives a future request for this information from an individual other than the requestor or his authorized representative, the sheriff should again seek our decision.

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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/eb

Ref: ID# 276086

Enc. Submitted documents

c: Mr. Landon Mann  
P.O. Box 1943  
Granbury, Texas 76048  
(w/o enclosures)