



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 25, 2009

Ms. Jo Spurger  
Somervell County Sheriff's Department  
750 East Gibbs Boulevard  
Glen Rose, Texas 76043

OR2009-02451

Dear Ms. Spurger:

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# 336235.

The Somervell County Sheriff's Department (the "department") received a request for all records related to the requestor. You state that the department has released some responsive information to the requestor. You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) of the Government Code 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." *Id.* § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that certain portions of the submitted information relate to pending criminal investigations. Based on this representation and our review of the submitted information, we conclude that release of the information we have marked under section 552.108(a)(1) would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531

S.W.2d 177 (Tex. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

Section 552.108(a)(2) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(a)(2). Section 552.108(a)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in conviction or deferred adjudication. You state that certain portions of the submitted information relate to concluded criminal cases that did not result in conviction or deferred adjudication. Based on this representation and our review of the information at issue, we conclude that section 552.108(a)(2) applies to the information we have marked under this exception.

However, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *Id.* § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-187; see also Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, the department may withhold the reports we have marked under sections 552.108(a)(1) and 552.108(a)(2), but must release basic information from each of these reports.

You have submitted various “public copies” of responsive incident reports that are marked for release to the requestor. You state that you have redacted certain information from these reports pursuant to section 552.130 of the Government Code, which provides in relevant part:

(a) Information is excepted from [disclosure] if the information relates to:

(1) a motor vehicle operator’s or driver’s license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

Gov’t Code § 552.130(a)(1), (2). We note that some of the information you have marked for redaction under section 552.130 relates to the requestor. The requestor has a special right of access to her own section 552.130 information. See *id.* § 552.023 (person or person’s authorized representative has a special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person’s privacy interests). Thus, the department may not withhold any information that

relates to the requestor under section 552.130.<sup>1</sup> Conversely, the department must withhold the remaining Texas driver's license numbers you have marked that relate to persons other than the requestor under section 552.130. We have also marked additional Texas driver's license numbers, vehicle identification numbers, and Texas vehicle registration information that the department must withhold on this same basis.

Finally, you assert that some of the submitted information is made confidential by section 58.007 of the Family Code. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 58.007 of the Family Code, which provides for the confidentiality of juvenile law enforcement records related to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. *See* Open Records Decision No. 680 at 4 (2004); *see also* Fam. Code § 51.03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision"); 51.02(2) (defining "child" as a person who is ten years of age or older and under seventeen years of age at the time of the conduct). Section 58.007 provides in relevant part:

(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, D, and E.

Fam. Code § 58.007(c). One of the submitted files, which we have marked, involves juvenile delinquent conduct that occurred after September 1, 1997. It does not appear that any of the exceptions in section 58.007 apply to this information; therefore, this report is confidential pursuant to section 58.007(c) of the Family Code. The department must withhold this information under section 552.101 of the Government Code.

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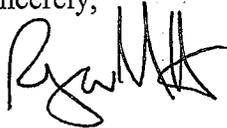
<sup>1</sup>However, because such information may be confidential with respect to the general public, if the department receives another request for this information from an individual other than this requestor, the department must again seek a ruling from this office.

In summary, the department: (1) may withhold the reports we have marked under sections 552.108(a)(1) and 552.108(a)(2) of the Government Code, but must release basic information from each of these reports pursuant to section 552.108(c), (2) must withhold the information we have marked in the pages you have marked for release under section 552.130 of the Government Code, (3) must withhold the report we have marked pursuant to section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code, and (4) must release the remainder of the submitted information to the requestor.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Ryan T. Mitchell  
Assistant Attorney General  
Open Records Division

RTM/jb

Ref: ID# 336235

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)