



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 19, 2009

Ms. Nicole B. Webster
Assistant City Attorney
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

OR2009-06821

Dear Ms. Webster:

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# 347729 (Waco Request No. LGL-09-375).

The Waco Police Department (the "department") received a request for all incident reports pertaining to three specified addresses during a specified time period. You indicate that some of the requested information is being provided to the requestor. You claim that the remaining information is 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 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses section 58.007 of the Family Code. The relevant language of section 58.007 reads as follows:

(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). Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. Report no. 06-45695 contains information that involves juvenile conduct occurring after September 1, 1997; therefore, this report is subject to section 58.007. It does not appear that any of the exceptions to disclosure in section 58.007 apply. Accordingly, report no. 06-45695 must be withheld pursuant to section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

Section 552.108(a) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the 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 report no. 08-16000 relates to an open and pending criminal investigation. Based upon this representation and our review of the information, we conclude that section 552.108(a)(1) is applicable to report no. 08-16000. *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, and you acknowledge, 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). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d 177; *see also* Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). Thus, with the exception of basic information, which you state you will release, the department may withhold report no. 08-16000 from disclosure based on section 552.108(a)(1).

You assert that some of the information in report no. 06-42002 is excepted under section 552.130 of the Government Code, which provides that information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by a

Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). Accordingly, the Texas motor vehicle record information you have marked in report no. 06-42002 must be withheld from the public pursuant to section 552.130 of the Government Code.

In summary, the department must withhold report no. 06-45695 pursuant to section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. The department may, with the exception of basic information, withhold report no. 08-16000 pursuant to section 552.108(a)(1). The department must withhold the Texas motor vehicle record information that it has marked in report no. 06-42002 pursuant to section 552.130 of the Government Code. The remaining information must be released.

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, 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,



Travis Tidmore
Assistant Attorney General
Open Records Division

TT/sdk

Ref: ID# 347729

Enc. Submitted documents

c: Requestor
(w/o enclosures)