



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 27, 2009

Ms. M. Ann Montgomery  
Assistant Ellis County and District Attorney  
Ellis County  
1201 North Highway 77, Suite 104  
Waxahachie, Texas 75165-7832

OR2009-07182

Dear Ms. Montgomery:

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# 344205.

The Ennis Police Department (the "department") received a request for information pertaining to two specified investigations. You claim the requested 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 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. This section encompasses information protected by other statutes, such as section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. The relevant language of 58.007 reads as follows:

(c) . . . 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 Subchapters B, D, and E.

...

(e) Law enforcement records and files concerning a child may be inspected or copied by . . . the child, and the child's parent or guardian.

...

(j) Before a child or a child's parent or guardian may inspect or copy a record or file concerning the child under Subsection (e), the custodian of the record or file shall redact:

(1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child; and

(2) any information that is excepted from disclosure under Chapter 552, Government Code, or other law.

Fam. Code § 58.007. The submitted information consists of law enforcement records relating to juveniles engaged in delinquent conduct that occurred after September 1, 1997. *See id.* § 51.03 (defining "delinquent conduct" for purposes of Fam. Code § 58.007). Thus, this information is generally confidential under section 58.007(c). However, in this instance, the request is from an attorney representing one of the juvenile arrestees. As such, the department may not withhold the submitted information under section 552.101 in conjunction with section 58.007(c) from this requestor. *Id.* § 58.007(e). However, in releasing this information to the requestor, any personally identifiable information concerning other juvenile suspects, offenders, victims, or witnesses must be redacted. *See id.* § 58.007(j)(1). You have marked the identifying information of other individuals. For the purposes of section 58.007(j), a juvenile suspect or offender is a child as defined by section 51.02 of the Family Code. *See id.* § 51.02(2) ("child" means a person who is ten years of age or older and under seventeen years of age). Two of the individuals whose information you have marked are identified as suspects and were seventeen and eighteen years of age at the time of the alleged offense. Thus, these individuals were not juveniles for

purposes of section 51.02(2) of the Family Code at the time of the alleged offense, and their identifying information may not be withheld under section 58.007(j)(1). Therefore, the department must only withhold the juvenile-identifying information we have marked under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. Section 58.007(j) also provides that information subject to any other exception to disclosure under the Act or other law must also be redacted. *See id.* § 58.007(j)(2). Accordingly, we will address your remaining arguments against disclosure of portions of the remaining information.

Section 552.108 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[.]” Gov’t Code § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 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 have marked portions of the remaining information the department seeks to withhold under section 552.108(a)(1), and you state the marked information is related to a pending criminal case. Based on your representations, we conclude that 552.108(a)(1) is generally applicable to the information you have marked. *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 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). Such basic information refers to the information held to be public in *Houston Chronicle*, and includes certain arrestee information. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 (summarizing types of information considered to be basic information). Accordingly, except for basic information, the department may withhold the information you have marked pursuant to section 552.108(a)(1).

Next, you have marked information you seek to withhold 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 must be withheld under section 552.130 of the Government Code.

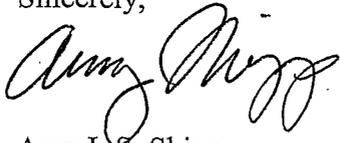
In summary, the department must withhold the identifying information of the juvenile victim and the juvenile offender who is not the requestor’s client, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. Except for basic information, the department may withhold the information you have marked pursuant to section 552.108(a)(1) of the Government Code. The

department must withhold the Texas motor vehicle record information you have marked pursuant to section 552.130 of the Government Code. The remaining information must be released to the requestor.<sup>1</sup>

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,



Amy L.S. Shipp  
Assistant Attorney General  
Open Records Division

ALS/rl

Ref: ID# 344205

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

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<sup>1</sup>We note the submitted information contains social security numbers. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. However, because the requestor is the authorized representative of her client, she has a right of access to her client's social security number. See Gov't Code § 552.023(b) (governmental body may not deny access to a person or person's authorized representative to whom information relates on grounds that information is considered confidential under privacy principles).