



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 22, 2009

Mr. Mark G. Mann
Assistant City Attorney
City of Garland
P. O. Box 469002
Garland, Texas 75046-9002

OR2009-08488

Dear Mr. Mann:

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# 350971 (GCA 09-0403).

The Garland Police Department (the "department") received a request for a specified incident report. You claim that portions of the requested 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 552.101 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 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. For purposes of section 58.007, "child" means a person who is ten years of age or older and under seventeen years of age. *See* Fam. Code § 51.02(2). 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.

...

(e) Law enforcement records and files concerning a child may be inspected or copied by a juvenile justice agency as that term is defined by Section 58.101, a criminal justice agency as that term is defined by Section 411.082, Government Code, 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 required disclosure under Chapter 552, Government Code, or other law.

Id. § 58.007(c), (e), (j). We have reviewed the submitted information and find it involves allegations of juvenile delinquent conduct in violation of a penal statute that occurred after September 1, 1997. Thus, this information is subject to section 58.007. However, we note, and you acknowledge, that the requestor is the mother of the juvenile offender listed in the submitted report. Under section 58.007(e), the requestor may inspect or copy law enforcement records concerning her child. *Id.* § 58.007(e). We note that section 58.007(j)(1) requires the redaction of any personally identifiable information concerning other juvenile suspects, offenders, victims, or witnesses. *See id.* § 58.007(j)(1). We agree that some of the information you have marked in purple is subject to section 58.007(j)(1). The rest of the information you have marked in purple is not identifying information and may not be withheld under section 58.007(j)(1). Thus, except for what we have marked for release, the department must withhold the information you have marked in purple under section

552.101 of the Government Code in conjunction with section 58.007(j)(1). However, section 58.007(j) also provides that information subject to any other exception to disclosure under the Act or other law must be redacted. *See id.* § 58.007(j)(2). Accordingly, we will address your claims under sections 552.108 and 552.130 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). 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 seek to withhold the information you have marked in red under section 552.108(a)(1). You state that the information at issue relates to a pending criminal investigation. Based upon this representation, we conclude that the release of the information you have marked 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. 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). Thus, the department may withhold the information you have marked in red pursuant to section 552.108(a)(1) of the Government Code.¹

Lastly, you claim that the information that you have marked in green is excepted from disclosure under section 552.130 of the Government Code. Section 552.130 excepts from disclosure information that relates to a motor vehicle operator’s or driver’s license or permit or a motor vehicle title or registration issued by an agency of this state. *See Gov’t Code* § 552.130(a)(1)-(2). Accordingly, we agree that the department must withhold the Texas motor vehicle record information you have marked in green, in addition to the information we have marked, under section 552.130.

In summary, except for what we have marked for release, the department must withhold the information marked in purple under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. The department may withhold the information marked in red under section 552.108(a)(1) of the Government Code. The department must withhold the Texas motor vehicle record information you have marked in green, in addition to the information we have marked, under section 552.130 of the Government Code. The remaining information must be released.²

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

²We note that because the requestor has a special right of access to this information in this instance, the department must again seek a decision from this office if it receives another request for the same information from another 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, 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,



Paige Savoie
Assistant Attorney General
Open Records Division

PS/eeg

Ref: ID# 350971

Enc. Submitted documents

cc: Requestor
(w/o enclosures)