



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 22, 2009

Mr. David K. Walker
Montgomery County Attorney
207 West Phillips, 1st Floor
Conroe, Texas 77301

OR2009-08494

Dear Mr. Walker:

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# 351127.

The Montgomery County Sheriff's Department (the "sheriff") received a request for information related to a specified address. You claim the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You claim Exhibit B-1 is subject to 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. This section encompasses information protected by other statutes, such as section 58.007 of the Family Code. Section 58.007 makes confidential the law enforcement records of a juvenile who, on or after September 1, 1997, engaged in delinquent conduct or conduct indicating a need for supervision. *See* Fam. Code § 51.03 (defining "delinquent conduct" and "conduct indicating a need for supervision"). The relevant language of section 58.007(c) 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.

Id. § 58.007(c). 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 id.* § 51.02(2). Here, the report at issue identifies a juvenile suspect alleged to have engaged in delinquent conduct that occurred after September 1, 1997. Thus, this report falls within the purview of section 58.007(c) of the Family Code. Since it appears that none of the exceptions to disclosure in section 58.007 apply, Exhibit B-1 is confidential pursuant to section 58.007(c) and must be withheld in its entirety under section 552.101 of the Government Code.¹

You raise section 552.108 of the Government Code for Exhibit B-2. 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)(1). 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.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the Exhibit B-2 relates to pending criminal prosecutions. Based on your representation and our review, we conclude release of the information at issue 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, we find section 552.108(a)(1) is applicable to Exhibit B-2.

We note, however, 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*. *See* 531 S.W.2d at 186-88. Therefore, the sheriff must release basic information, including a detailed description of the offense, even if the information does not literally appear on the front page

¹As our ruling is dispositive, we need not address your remaining argument against disclosure for Exhibit B-1.

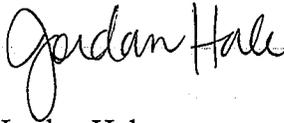
of an offense or arrest report. See Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). The sheriff may withhold the rest of Exhibit B-2 under section 552.108(a)(1) of the Government Code.

In summary, the sheriff must withhold Exhibit B-1 under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. With the exception of basic information, which must be released, the sheriff may withhold Exhibit B-2 under section 552.108 of the Government Code.

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,



Jordan Hale
Assistant Attorney General
Open Records Division

JH/jb

Ref: ID# 351127

Enc. Submitted documents

cc: Requestor
(w/o enclosures)