



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 9, 2009

Ms. LeAnn M. Quinn, TRMC
City Secretary
City of Cedar Park
600 North Bell Boulevard
Cedar Park, Texas 78613

OR2009-15926

Dear Ms. Quinn:

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# 360934 (Cedar Park Reference No. 09-345).

The City of Cedar Park (the "city") received a request for police report number 0908-0194. You state that you will release some information to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 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 public 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, including section 58.007 of the Family Code. Law enforcement records involving juvenile offenders and relating to conduct that occurred on or after September 1, 1997, are confidential under section 58.007. 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.

Fam. Code § 58.007(c), (e), (j). For the purposes of section 58.007(c), "child" means a person who is ten years of age or older and under seventeen years of age at the time of the reported conduct. *See* Fam. Code § 51.02(2). However, section 58.007(c) does not apply where the information in question involves a juvenile only as a complainant, victim, witness, or other involved party, and not as a suspect or offender. In this instance, the individual whose information you have marked was seventeen years of age at the time of the alleged offense. Further, this individual was not listed as a suspect or offender. Upon review, we find that the submitted information does not identify any individual as a juvenile suspect or offender. Thus, the submitted information is not a juvenile law enforcement record for the purposes of section 58.007 of the Family Code. Therefore, the city may not withhold the information you have marked under section 552.101 in conjunction with section 58.007 of the Family 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 inform us, and provide documentation showing, that the submitted police report relates to a pending prosecution. Based on your representation and our review, we conclude that release of the information in Exhibit C would interfere with the detection, investigation, or prosecution of a 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). Therefore, section 552.108(a)(1) of the Government Code is generally applicable to the information in Exhibit C.

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; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). You state you will release Exhibit B as basic information. We note that you seek to withhold the entire narrative page in Exhibit C under section 552.108. However, the information in Exhibit B does not contain information sufficient to satisfy the requirement that a “detailed description of the offense” be released as basic information. *Id.* Accordingly, we determine that the city must release a sufficient portion of the narrative page to encompass a detailed description of the offense to satisfy the required release of basic information pursuant to *Houston Chronicle*. The city may withhold the remaining information in Exhibit C under section 552.108(a)(1) of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information that “relates to...a motor vehicle operator’s or driver’s license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state.” Gov’t Code §552.130. The city must withhold the information we have marked under section 552.130 of the Government Code. However, with regard to the remaining information you have marked under section 552.130, you state that the requestor is a parent of the minor child whose Texas driver’s license you seek to withhold. Thus, the requestor has a right of access under section 552.023 to her child’s driver’s license number. *Id.* § 552.023 (person or the parent of minor has a special right of access to information that is excepted from public disclosure under laws intended to protect that person’s or that person’s child’s privacy interest). Therefore the city may not withhold the Texas driver’s license you have marked that pertains to the requestor’s child under section 552.130 of the Government Code.

You also seek to withhold a social security number under section 552.147 of the Government Code. 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. *Id.* § 552.147(b). However, as previously noted, the requestor, as the parent of the child whose social security number is at issue, has a special right of access under section 552.023 of the Government Code to the

child's social security number. *See* Gov't Code § 552.023. Accordingly, the city may not withhold the social security number in the submitted information pursuant to section 552.147(b) and must release it to the requestor.

In summary, except for a detailed description of the offense, the city may withhold the information in Exhibit C under section 552.108(a)(1) of the Government Code. The city must withhold the Texas motor vehicle record information we have marked in Exhibit B under section 552.130 of the Government Code. The remaining information must be released to the requestor.¹

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, toll free, at (888) 672-6787.

Sincerely,



Nneka Kanu
Assistant Attorney General
Open Records Division

NK/eb

Ref: ID# 360934

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

¹We note that the information being released contains confidential information to which the requestor has a right of access. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual asks governmental body to provide him with information concerning himself). Therefore, if the department receives another request for this same information from a different requestor, then the department should again seek a decision from this office.