



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 18, 2009

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

OR2009-18008

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# 364800 (GCA09-0776).

The Garland Police Department (the "department") received a request for a police report and any video recording pertaining to an incident involving the requestor's son at a specified time. You state that the department has no responsive video recording. We note that the Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983). You claim that the submitted 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.

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 delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997 are confidential under section 58.007. Fam. Code § 58.007. The submitted incident report involves juvenile delinquent conduct that occurred after

September 1, 1997. Therefore, section 58.007 is applicable to the report. We note, however, that the requestor is the mother of one of the juvenile offenders in the report. A governmental body may not withhold a child's law enforcement records from a parent under section 58.007(c). *Id.* § 58.007(e). However, the requested police report also involves a juvenile offender other than the requestor's child. Therefore, pursuant to section 58.007(j), the department must withhold the information you have marked in purple identifying the other juvenile offender before allowing the requestor to inspect or copy these reports. Additionally, section 58.007(j)(2) provides that information subject to any other exception to disclosure under the Act or other law must also be redacted before a requestor is allowed to inspect or copy records pursuant to section 58.007(e). *See id.* § 58.007(j)(2). Accordingly, we will address your claim under section 552.108 of the Government Code.

Section 552.108(a)(1) 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 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 inform this office that charges have been filed in connection with the case to which the submitted report relates, and that there has been no disposition of these charges. You also state that release of the information you marked would interfere with this ongoing case. Based on your representations and our review, we determine release of the marked information 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). Accordingly, the department may withhold the information you marked in red pursuant to section 552.108(a)(1) of the Government Code.

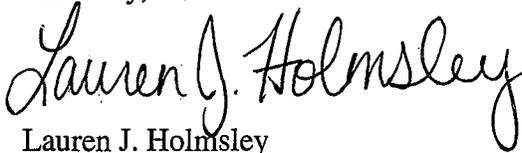
In summary, the department must withhold the information you marked in purple under section 552.101 in conjunction with section 58.007(j)(1) of the Family Code. The department may withhold the information you marked in red under section 552.108 of the Government Code. The remaining information must be released to this 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.

¹We note that because the requestor has a special right of access to this information under section 58.007(e) of the Family Code, the department must again seek a decision from this office if it receives another request for the same information from a different requestor.

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,



Lauren J. Holmsley
Assistant Attorney General
Open Records Division

LJH/sdk

Ref: ID# 364800

Enc. Submitted documents

c: Requestor
(w/o enclosures)