



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 29, 2009

Ms. Jaime Suzanne French  
Fulbright & Jaworski, L.L.P.  
300 Convent Street, Suite 2200  
San Antonio, Texas 78205-3792

OR2009-18358

Dear Ms. French:

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# 370453.

The Schertz Police Department (the "department"), which you represent, received a request for two specified incident reports involving a named individual. You claim that the requested information is excepted from disclosure under sections 552.101, 552.108, 552.130, 552.136, 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 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. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007 of the Family Code. For purposes of section 58.007, "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). Section 58.007(c) reads as follows:

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. You claim case number 2009-13186 is subject to section 58.007. Upon review, we agree case number 2009-13186 constitutes a juvenile law enforcement record that pertains to delinquent conduct that occurred after September 1, 1997. Because none of the exceptions in section 58.007 apply, we determine that case number 2009-13186 is confidential under section 58.007(c) and must be withheld pursuant to section 552.101 of the Government Code.

Next, you claim that the remaining information is excepted from disclosure under section 552.108(a)(1). 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). Generally, a governmental body claiming section 552.108(a)(1) 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 us that the information at issue relates to a pending criminal prosecution. Based upon your representation, we find that section 552.108(a)(1) is applicable to the remaining submitted information. *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.*, 536 S.W.2d 559 (Tex. 1976) (per curiam) (court delineates law enforcement interests that are present in active cases).

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). Basic information refers to the information held to be public in *Houston Chronicle*. *See Houston Chronicle*, 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Therefore, with the exception of basic information, the department may withhold the remaining submitted information under section 552.108(a)(1).

We note that basic information includes the social security number of an arrestee. Section 552.147 of the Government Code provides that “[t]he social security number of a

living person is excepted from" required public disclosure under the Act.<sup>1</sup> Gov't Code § 552.147. Therefore, the department may withhold the social security number of the arrestee pursuant to section 552.147 of the Government Code.

In summary, the department must withhold case number 2009-13186 under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. Except for basic information, the department may withhold the remaining information under section 552.108 of the Government Code.<sup>2</sup> The department may withhold the arrestee's social security number pursuant to section 552.147 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](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,



Tamara H. Holland  
Assistant Attorney General  
Open Records Division

THH/sdk

Ref: ID# 370453

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>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. Gov't Code § 552.147(b).

<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments.