



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 30, 2009

Ms. Michelle T. Rangel
Assistant County Attorney
Fort Bend County
301 Jackson Street, Suite 782
Richmond, Texas 77469

OR2009-18400

Dear Ms. Rangel:

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# 365754.

The Fort Bend County Sheriff Office (the "sheriff") received a request for all incident reports involving the requestor and/or a named individual at a specified location during a specified time period. You claim that the submitted information is 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 representative sample of information.¹

Initially, we note and you acknowledge that the requestor agreed to allow the sheriff to redact driver's license and social security numbers. As this information is no longer encompassed by the request, it is not responsive and we do not address its availability in this ruling.

¹We assume that the "representative sample" of information submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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. 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). We have reviewed the submitted information and find incident report number 08-30632 involves allegations of juvenile delinquent conduct that occurred after September 1, 1997. *See id.* § 51.03 (defining “delinquent conduct” for purposes of section 58.007). In this instance, however, the requestor is the parent of the juvenile involved. Section 58.007(e) allows a child’s parent or guardian access to the juvenile law enforcement records of the child. *Id.* § 58.007(e). However, section 58.007(j) 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). Thus, because you assert incident report number 08-30632 is excepted from disclosure under section 552.108 of the Government Code, we must address whether the submitted information is excepted on this basis. *See id.* § 58.007(j)(2).

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.” 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 Gov’t Code* §§ 552.108(a)(1), 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the information related to incident report number 08-6936 relates to a pending criminal investigation and prosecution. Based on this representation, we conclude that the release of this 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. App.-- Houston [14th Dist.] 1975), *writ ref’d n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state that the information related to incident report numbers 07-795, 07-22817, and 08-30632 pertain to cases that resulted in no conviction or deferred adjudication regarding the suspect. Therefore, we agree that section 552.108(a)(2) is applicable to this information.

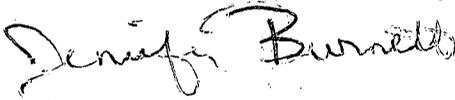
We note, however, that section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*, and includes a detailed description of the offense. Therefore, with the exception of basic information, the sheriff may withhold incident report number 08-6936 pursuant to section 552.108(a)(1) of the Government Code, and incident report numbers 07-795, 07-22817, and 08-30632 pursuant

to section 552.108(a)(2) of the Government Code.² As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/eeg

Ref: ID# 365754

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note the information being released contains confidential information regarding the juvenile engaged in alleged delinquent conduct to which the requestor has a right of access as the child's parent. See Fam. Code § 58.007(e). If the sheriff receives another request for this particular information from a different requestor, then the sheriff should again seek a decision from this office.