



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 22, 2010

Mr. B. Chase Griffith
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2010-03988

Dear Mr. Griffith:

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# 373575.

The McKinney Police Department (the "department"), which you represent, received a request for the report pertaining to case number 09-35910. You claim the submitted report is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception 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. 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. *See* Fam. Code § 58.007(c). The report pertaining to case number 09-35910 involves a juvenile engaged in conduct indicating a need for supervision that occurred after September 1, 1997. *See id.* § 51.03(b) (defining "conduct indicating a need for supervision" to include "the voluntary absence of a child from the child's home without the consent of the child's parent or guardian for a substantial length of time or without intent to return"). We note, however, that the requestor is the father of the juvenile offender. A governmental body may not withhold a child's law enforcement records from the child's parent under section 58.007(c). *Id.* § 58.007(e). However, pursuant to section 58.007(j), a governmental body may raise other exceptions to disclosure of those records. *Id.* § 58.007(j)(2). Therefore, we will consider your argument against disclosure.

You claim the report pertaining to case number 09-35910 is subject to section 552.108(a)(2) of the Government Code. Section 552.108(a)(2) excepts from disclosure "[i]nformation held

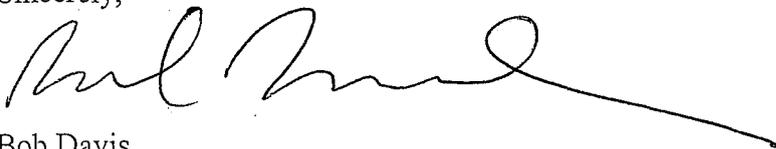
by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(a)(2). Section 552.108(a)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in a conviction or deferred adjudication. A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information that the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You explain case number 09-35910 has been closed without any charges being filed, and that no further action will be taken with respect to the incident described therein. Based on your representation and our review, we agree section 552.108(a)(2) is applicable to this information.

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* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information that must be released, the department may withhold the report pertaining to case number 09-35910 under section 552.108(a)(2).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,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/cc

¹Because this requestor has a special right of access to information that would ordinarily be confidential under section 58.007 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.

Ref: ID# 373575

Enc. Submitted documents

cc: Requestor
(w/o enclosures)