



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 19, 2011

Mr. Charles Weir  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR2011-10273

Dear Mr. Weir:

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# 428703 (COSA File No. W001755).

The City of San Antonio (the "city") received a request for a specified offense report. You claim that the submitted information is excepted from disclosure under section 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 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 that other statutes make confidential, such as section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. For purposes of section 58.007, "child" means a person who is ten years of age or older and under seventeen years of age. *See* Fam. Code § 51.02(2). Section 58.007 provides in pertinent part 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 Subchapters 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.

*Id.* § 58.007(c), (e), (j). Upon review, we agree that the submitted report involves juveniles engaged in delinquent conduct occurring after September 1, 1997; therefore, the submitted report is subject to section 58.007. However, it appears that the requestor may be a parent or guardian of one of the juvenile suspects listed in the submitted report. Under section 58.007(e), a child's parent or guardian has a right to inspect or copy law enforcement records concerning their own child. *See id.* § 58.007(e). Accordingly, if the requestor is not the parent or guardian of one of the juvenile suspects, then the city must withhold the submitted report in its entirety under section 552.101 in conjunction with section 58.007(c) of the Family Code.

However, if the requestor is a parent or guardian of a juvenile suspect listed in the submitted report, the requestor has a right to inspect law enforcement records concerning her child

under section 58.007(e). *See id.* In that case, any personally identifiable information concerning the other juvenile suspects, offenders, victims, or witnesses must be redacted. *See id.* § 58.007(j)(1). Further, section 58.007(j)(2) 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). 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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information relates to a pending criminal case. Based upon your representation and our review, we find that section 552.108(a)(1) is applicable to the submitted information. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14<sup>th</sup> Dist.] 1975)(court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

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 186-87; 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, the city may withhold the submitted information under section 552.108(a)(1).<sup>1</sup> However the city may not release as basic information any personally identifiable information concerning any juvenile suspect, offender, victim, or witness other than the juvenile suspect to whom the requestor is a parent or guardian. *See Fam. Code* § 58.007(j)(1).

In summary, if the requestor is not a parent or guardian of a juvenile suspect listed in the submitted report, then the city must withhold the submitted report in its entirety under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. If the requestor is a parent or guardian of a juvenile suspect listed in the submitted report, with the exception of basic information, the city may withhold the submitted report under section 552.108(a)(1) of the Government Code. However, in releasing the basic information, the city must redact the identifying information of any juvenile suspects,

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<sup>1</sup>We note that if the requestor is a parent or guardian of a juvenile suspect in this instance, the requestor has a special right of access to the information being released. Because such information is confidential with respect to the general public, if the city receives another request for this information from a different requestor, the city must again seek a ruling from this office.

offenders, victims, or witnesses who are not the requestor's child pursuant to section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family 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,



Laura Ream Lemus  
Assistant Attorney General  
Open Records Division

LRL/em

Ref: ID# 428703

Enc. Submitted documents

c: Requestor  
(w/o enclosures)