



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 1, 2012

Ms. Terri Bradley
Records Division
City of Rosenberg
2120 Fourth Street
Rosenberg, Texas 77471

OR2012-03189

Dear Ms. Bradley:

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# 451077.

The Rosenberg Police Department (the "department") received a request for information relating to a specified incident involving a named individual. You state some responsive information has been released to the requestor. You claim the submitted information is exempted 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 exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. Section 58.007 of the Family Code provides in part:

(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.

Fam. Code § 58.007(c), (e), (j); *see id.* § 51.03(a)-(b) (defining "delinquent conduct" and "conduct indicating need for supervision" for purposes of title 3 of Fam. Code). Section 58.007(c) is applicable to records of juvenile conduct that occurred on or after September 1, 1997. *See* Act of June 2, 1997, 75th Leg., R.S., ch. 1086, §§ 20, 55(a), 1997 Tex. Gen. Laws 4179, 4187, 4199; Open Records Decision No. 644 (1996). The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See* Fam. Code § 51.02(2) (defining "child" for purposes of title 3 of Family Code). Section 58.007(c) is not applicable to information that relates to a juvenile as a complainant, victim, witness, or other involved party and not as a suspect or offender.

The submitted information involves a juvenile suspect and is therefore subject to section 58.007(c) of the Family Code. In this instance, however, the requestor may be the juvenile suspect's parent or guardian. As we are unable to make this determination, we must rule conditionally. If the requestor is not a parent or guardian of the juvenile suspect, then

the department must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

If the requestor is a parent or guardian of the juvenile suspect, then section 58.007(e) allows him access to the child's law enforcement records. *Id.* § 58.007(e). Nonetheless, before the requestor is permitted to receive information concerning these records, any personally identifiable information concerning a juvenile suspect, offender, victim, or witness who is not the child of the requestor must be redacted. *Id.* § 58.007(j)(1). Further, section 58.007(j)(2) of the Family Code provides that information subject to any other exception to disclosure under the Act or other law must also be redacted. *See id.* § 58.007(j)(2). Accordingly, we will address your arguments against disclosure under sections 552.101 and 552.108 of the Government Code.

Section 552.108 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 must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You state that the submitted information is related to a pending criminal investigation. Based on your representation, we conclude that section 552.108(a)(1) is generally applicable to the submitted information. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th 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).

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). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of the basic information, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code. However, in releasing basic information, the department must withhold the personally identifiable information concerning a juvenile suspect, offender, victim, or witness who is not the child of the requestor under section 552.101 in conjunction with section 58.007(j)(1) of the Family Code.

In summary, if the requestor is not a parent or guardian of the juvenile suspect, then the department must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. If the requestor is a parent or guardian of the juvenile suspect, we conclude as follows: The department may withhold the submitted information under section 552.108(a)(1) of the

Government Code, except for the basic information that must be released under section 552.108(c). However, in releasing basic information, the department must withhold the personally identifiable information concerning a juvenile suspect, offender, victim, or witness who is not the child of the requestor under section 552.101 in conjunction with section 58.007(j)(1) of the Family Code.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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 451077

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we do not address your remaining claim.