



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 8, 2013

Ms. Cheryl K. Byles
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd floor
Fort Worth, Texas 76102

OR2013-00448

Dear Ms. Byles:

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# 475910 (CFW PIR No. W020973).

The City of Fort Worth (the "city") received a request for the police report for a specified incident. You claim the submitted information 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 disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."¹ Gov't Code § 552.101. Section 552.101 encompasses information protected by other statutes, such as section 58.007(c) of the Family Code, which provides 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:

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

- (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.

Fam. Code § 58.007(c). Section 58.007(c) is applicable to records of juvenile delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. *See id.* § 51.03(a) (defining “delinquent conduct” for purposes of 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 at the time of the reported conduct. *See id.* § 51.02(2). Upon review, we find the submitted information involves delinquent conduct that occurred after September 1, 1997. Further, it does not appear that any of the exceptions in section 58.007 apply to this information. However, we are unable to determine whether the alleged suspect listed in the information at issue was ten years of age or older and under seventeen years of age when the conduct occurred. Therefore, we must rule conditionally. If the suspect at issue was ten years of age or older and under seventeen years of age at the time of the conduct, the submitted information is confidential in its entirety pursuant to section 58.007(c) of the Family Code, and the city must withhold it under section 552.101 of the Government Code. If the suspect was not ten years of age or older and under seventeen years of age at the time of the conduct, section 58.007 is not applicable to this information, and it may not be withheld under section 552.101 in conjunction with section 58.007(c). For that situation, we will consider your argument against disclosure of the submitted information.

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 claiming section 552.108 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 the submitted information pertains to a pending criminal investigation. Based on your representation and our review, we conclude 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. 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). Therefore, section 552.108(a)(1) 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). Such basic information refers to the information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-87; Open Records Decision No. 127 (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code.

In summary, if the suspect listed in the submitted information was ten years of age or older and under seventeen years of age at the time of the conduct at issue, the submitted information must be withheld in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. Otherwise, with the exception of basic information, the city may withhold the submitted information under section 552.108(a)(1) 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, 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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/bhf

Ref: ID# 475910

Enc. Submitted documents

c: Requestor
(w/o enclosures)