



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 14, 2013

Ms. LeAnn M. Quinn
City Secretary
City of Cedar Park
450 Cypress Creek Road
Cedar Park, Texas 78613

OR2013-00772

Dear Ms. Quinn:

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# 475888 (Ref. No. 13-052).

The City of Cedar Park (the "city") received a request for information related to the requestor. You state the city will redact driver's license numbers pursuant to section 552.130(c) of the Government Code and social security numbers pursuant to section 552.147(b) of the Government Code.¹ You claim that the submitted information is excepted 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 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 58.007 of the Family Code, which provides in pertinent part as follows:

¹Section 552.130(c) of the Government Code authorizes governmental bodies to redact the information described in subsections 552.130(a)(1) and (a)(3) without the necessity of seeking a decision from the attorney general. See Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). See *id.* § 552.130(d), (e). Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *Id.* § 552.147(b).

(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:

...

(2) any information that is excepted from required disclosure under [the Act], or other law.

Fam. Code § 58.007(c), (e), (j)(2); *see id.* § 51.03(a)-(b) (defining "delinquent conduct" and "conduct indicating need for supervision" for purposes of Fam. Code title 3). 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). 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. We find the

information we have marked, including report number OCA 1009-0066, consists of law enforcement records that involve juvenile delinquent conduct that occurred after September 1, 1997. Accordingly, the marked information is generally subject to section 58.007(c). However, we find the remaining information does not involve a juvenile suspect or offender. *See* Fam. Code § 51.02(2) (“child” means a person who is ten years of age or older and under seventeen years of age). We therefore conclude the city may not withhold any of the remaining information at issue under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

However, in this instance, the requestor is the juvenile suspect or offender listed in the marked information, and is now an adult. Section 58.007(e) allows the requestor access to his own juvenile law enforcement records. *Id.* § 58.007(e). Accordingly, the city may not withhold the marked information from this requestor under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. However, section 58.007(j)(2) provides before the juvenile suspect may inspect the information, the city must withhold information that is excepted from required disclosure under the Act or other law. *See id.* § 58.007(j)(2). You raise section 552.108 for report number OCA 1009-0066. Accordingly, we will address the applicability of this exception to this information.

Section 552.108(a)(2) 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 . . . 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 the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A). You state report number OCA 1009-0066 relates to a concluded criminal case that did not result in a conviction or deferred adjudication. Based on this representation and our review, we conclude section 552.108(a)(2) is applicable to report number OCA 1009-0066.

We note 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 Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, with the exception of basic information, the city may withhold report number OCA 1009-0066 under section 552.108(a)(2).

In summary, with the exception of basic information, which must be released to this requestor, the city may withhold report number OCA 1009-0066 under section 552.108(a)(2) of the Government Code. The remaining information must be released to this requestor.²

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,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 475888

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note that the requestor has a special right of access to the information being released in this instance. 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.