



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 21, 2013

Ms. Lysia H. Bowling
City Attorney
City of San Angelo
P.O. Box 1751
San Angelo, Texas 76902

OR2013-02937

Dear Ms. Bowling:

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# 480864.

The San Angelo Police Department (the "department") received a request for information pertaining to a specified investigation. You claim the requested 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 of the Government Code 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, including section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. Section 58.007(c) reads 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:

- (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” and “conduct indicating a need for supervision” for purposes of section 58.007(c) of Family Code). For purposes of section 58.007(c), “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. *Id.* § 51.02(2). You assert the submitted information is confidential under section 58.007. However, we are unable to determine the age of the offender at issue in the submitted incident report. Accordingly, we must rule conditionally. It does not appear any of the exceptions in section 58.007 apply to this information. Therefore, if the offender at issue in the submitted information was ten years of age or older and under seventeen years of age at the time of the reported conduct, then the submitted information is confidential under section 58.007(c) and the department must withhold it from release in its entirety under section 552.101 of the Government Code on that ground. If the offender at issue was not ten years of age or older and under seventeen years of age at the time of the reported conduct, then the department may not withhold the submitted information under section 552.101 on that ground and we address your arguments to withhold it under section 552.108 of the Government Code.

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Generally, 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 Gov’t Code* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the requested information relates to a pending criminal investigation. Based on this representation, we conclude the release of the submitted 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).

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*. Thus, if the offender at issue in the

submitted information was not ten years of age or older and under seventeen years of age at the time of the reported conduct, then the department must release the basic front-page offense and arrest information, but may withhold the remaining information under section 552.108(a)(1).

To conclude, if the offender at issue in the submitted information was ten years of age or older and under seventeen years of age at the time of the reported conduct, then the department must withhold the submitted information in its entirety from release under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. If the offender at issue was not ten years of age or older and under seventeen years of age at the time of the reported conduct, then the department must release the basic information, but may withhold the remaining 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

Ref: ID# 480864

Enc. Submitted documents

c: Requestor
(w/o enclosures)