



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 7, 2013

Mr. Matthew B. Cross
Assistant City Attorney
City of El Paso
2 Civic Center Plaza, 9th Floor
El Paso, Texas 79901

OR2013-03873

Dear Mr. Cross:

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# 482111.

The El Paso Police Department (the "department") received a request for information pertaining to family violence and harassment incidents at a specified address from January of 1998 through December of 2012. You state the department has released some of the requested information but claim some of 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.

Initially, we note you seek to withhold information relating to 9-1-1 callers. In Open Records Letter No. 2003-0708 (2003), this office issued a previous determination that authorizes the department to withhold the originating telephone numbers and addresses of 9-1-1 callers furnished by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. *See* Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under Gov't Code § 552.301(a)). Therefore, to the extent the information you have marked consists of the telephone numbers and addresses of 9-1-1 callers that were furnished by a service supplier established in accordance with chapter 772, the department must withhold any such information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code in accordance with the previous determination issued to the department in Open Records Letter No. 2003-0708.

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). Upon review, we find some of the remaining information involves alleged juvenile delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. *See id.* §§ 51.02(2) (for purposes of section 58.007, “child” means a person who is ten years of age or older and under seventeen years of age), 51.03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision”). The exceptions in section 58.007 do not appear to apply. Therefore, the department must withhold this information, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state incident report number 06-148067 pertains to a case that concluded in a result other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) 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). Basic information refers to the information held to be public in *Houston Chronicle Publishing 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 the basic front-page

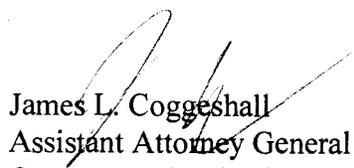
offense and arrest information, the department may withhold incident report number 06-148067 under section 552.108(a)(2).

To conclude, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code in accordance with the previous determination issued to the department in Open Records Letter No. 2003-0708 if this information consists of the telephone numbers and addresses of 9-1-1 callers that were furnished by a service supplier established in accordance with chapter 772 of the Health and Safety Code. The department must also withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. With the exception of basic information, the department may withhold incident report number 06-148067 under section 552.108(a)(2) of the Government Code. The department must release the remaining information.

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# 482111

Enc. Submitted documents

c: Requestor
(w/o enclosures)

