



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 15, 2013

Ms. Delietrice Henry
Open Records Assistant
Plano Police Department
P.O. Box 860358
Plano, Texas 75086-0358

OR2013-19971

Dear Ms. Henry:

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# 505821 (Plano ORR #ROUT082613).

The Plano Police Department (the "department") received a request for an incident report pertaining to juveniles in possession of alcohol and marijuana. You state you have released some of the information. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

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. Section 552.101 of the Government Code encompasses information

¹ Although you do not raise section 552.130 of the Government Code in your brief, we understand you to raise this exception based on your markings.

² We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

protected by other statutes, such as section 58.007 of the Family Code, which provides in pertinent 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 [the Act], or other law.

Fam. Code § 58.007(c), (e), (j). Juvenile law enforcement records relating to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997 are confidential under section 58.007. *See id.* § 51.03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision"). 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 conduct. *See id.* § 51.02(2). Upon review, we agree the submitted information is within the scope of section 58.007(c). In this instance, however, the requestor is parent of one of the juvenile offenders listed in the information at issue. Therefore, the requestor has a right to inspect or copy law enforcement records concerning his child, and the department may not withhold the submitted information from this requestor under section 552.101 of the Government Code in conjunction with subsection 58.007(c) of the Family Code. *See id.* § 58.007(e). However, subsection 58.007(j)(1) provides personally identifiable information concerning any other juvenile suspects, offenders, victims, or witnesses must be redacted. *See id.* § 58.007(j)(1). For the purposes of section 58.007(j)(1), a juvenile victim or witness is a person who is under eighteen years of age. Thus, the department must withhold the identifying information of the juveniles who are not the requestor's daughter, which we have marked in Exhibit B, under section 552.101 in conjunction with section 58.007(j)(1) of the Family Code. The remaining information you have marked does not identify a juvenile suspect, offender, victim, or witness, and may not be withheld under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code.

Additionally, subsection 58.007(j)(2) provides that information subject to any other exception to disclosure under the Act or other law must be redacted. *Id.* § 58.007(j)(2). Accordingly, we will address your remaining arguments against disclosure of the information in Exhibits B and C.

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(a)(1) 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 state the Collin County District Attorney’s Office has advised the release of this information in response to this request would interfere with the prosecution of this case and has requested section 552.108 be asserted on its behalf. Based on this representation and our review, we conclude that release of the information in Exhibit C 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, we agree section 552.108(a)(1) of the Government Code is applicable to Exhibit C.

Section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108©. Basic information refers to the 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). Basic information includes, among other things, a detailed description of the offense. *See* 531 S.W.2d at 179-80, 185-87; *see also* ORD 127. We note you wish to withhold Exhibit C, which includes the entire narrative portion of the report. However, Exhibit B, which you will release, does not contain information sufficient to satisfy the requirement that a “detailed description of the offense” be released as basic information. *See* 531 S.W.2d at 179-80, 185-87. Therefore, with the exception of a detailed description of the offense, the department may withhold the information in Exhibit C pursuant to section 552.108(a)(1) of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s or driver’s license or permit, or a motor vehicle title or registration, issued by an agency of this state or another state or country is excepted from public release. Gov’t Code § 552.130(a). Upon review, we find the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.³ However, the remaining information you have marked consists of the motor vehicle record information of the requestor’s minor daughter. Because section 552.130 protects personal privacy, the requestor has a right of access to his minor daughter’s motor vehicle record information under section 552.023 of the Government Code, and it may not be withheld from him on this basis. *See id.* § 552.023(a) (person or person’s authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person’s privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself).

In summary, the department must withhold the identifying information we have marked in Exhibit B under section 552.101 in conjunction with section 58.007(j)(1) of the Family Code. With the exception of a detailed description of the offense, the department may withhold the information in Exhibit C under section 552.108(a)(1) of the Government Code. The department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The remaining information must be released.⁴

³We note section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) 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* Gov’t Code § 552.130(d), (e).

⁴ As noted, the requestor has a special right of access, beyond that of the general public, to the information being released in this instance. *See* Fam. Code § 58.007(e) (child may inspect or copy law enforcement records and files concerning that child); Gov’t Code § 552.023(a) (person has special right of access, beyond right of general public, to information held by governmental body that relates to herself and is protected from public disclosure by laws intended to protect person’s privacy interests). Therefore, if the department receives another request for this information from a different requestor, it must again seek a ruling from this office.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Alia K. Plasencia-Bishop
Assistant Attorney General
Open Records Division

AKPB/bhf

Ref: ID# 505821

Enc. Submitted documents

c: Requestor
(w/o enclosures)