



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 18, 2014

Ms. Rachel Saucier
Legal Assistant
City of Georgetown
P.O. Box 409
Georgetown, Texas 78627-0409

OR2014-02931

Dear Ms. Saucier:

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# 514523 (Georgetown PD ORR 2013-625).

The City of Georgetown (the "city") received a request for a specified police report and any related reports from Tippit Middle School. You state you do not have any responsive records from Tippit Middle School.¹ You also state you have released some of the information. 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."² Gov't Code § 552.101. Section 552.101 encompasses information that other statutes make

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

²The Office of the Attorney General will raise mandatory exceptions like section 552.101 on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

confidential, such as section 58.007 of the Family Code. Section 58.007(c) is applicable to law enforcement records of juvenile delinquent conduct or a juvenile engaged in conduct indicating a need for supervision that occurred on or after September 1, 1997. *See* Fam. Code § 51.03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of section 58.007). 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. *See id.* § 51.02(2). Section 58.007 provides, in pertinent part, as follows:

(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 Chapter 552, Government Code, or other law.

Id. § 58.007(c), (e), (j). The submitted information involves allegations of delinquent conduct that occurred after September 1, 1997; thus, it is subject to section 58.007 of the Family Code. In this instance, however, the requestor states she is a grandparent of the juvenile suspect listed in the report. If the requestor is the juvenile's guardian, the requestor would have a right to inspect law enforcement records concerning the juvenile under section 58.007(e). *See id.* § 58.007(e). As we are unable to determine whether the requestor is the juvenile's guardian, we must rule conditionally. Thus, if the requestor is not the juvenile suspect's guardian, then we conclude the submitted information must be withheld in its entirety under section 58.007(c) of the Family Code in conjunction with section 552.101 of the Government Code. If the requestor is the juvenile's guardian, then the requestor has a right to inspect the submitted information under section 58.007(e) of the Family Code. In that event, the submitted information may not be withheld from this requestor on the basis of section 58.007(c). Section 58.007(j) provides, however, that information subject to any other exception to disclosure under the Act or other law must be redacted. *See id.* § 58.007(j)(2). Accordingly, we will address your claim under section 552.108 of the Government Code.

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). Generally, a governmental body claiming section 552.108 must reasonably explain how and why 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 submitted information pertains to an active investigation of a crime. Based upon your representation and our review, we find 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). Thus, we find section 552.108(a)(1) of the Government Code is applicable to the submitted 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*. *See* 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 (1976) (summarizing the types of information considered to be basic information). We note basic information does not include the identifying information of a victim or witness who is not also the complainant. *See* ORD 127 at 3-7. 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 city determines the requestor is not the juvenile suspect's guardian, then the city must withhold the information in its entirety under section 58.007(c) of the Family Code in conjunction with section 552.101 of the Government Code. If the city determines the requestor is the juvenile suspect's guardian, then, except for the 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.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,



Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/tch

Ref: ID# 514523

Enc. Submitted documents

c: Requestor
(w/o enclosures)