



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 25, 2014

Mr. Brandon S. Shelby  
City Attorney  
City of Sherman  
P. O. Box 1106  
Sherman, Texas 75091

OR2014-10834

Dear Mr. Shelby:

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# 527592 (Sherman Ref. No. OR-1437).

The Sherman Police Department (the "department") received a request for a specified incident report. You state some information was released to the requestor. You claim portions of the submitted information are excepted from disclosure under sections 552.108 and 552.148 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."<sup>1</sup> Gov't Code § 552.101. Section 552.101 encompasses section 58.007 of the Family Code, which 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;

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception such as section 552.101 on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

(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 juvenile delinquent conduct that occurred on or after September 1, 1997, are confidential under section 58.007. *See id.* § 51.03 (defining "delinquent conduct"). 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). The information at issue involves a child engaged in delinquent conduct that occurred after September 1, 1997. Thus, this information constitutes juvenile law enforcement records that are confidential pursuant to section 58.007(c).

In this instance, however, we note the requestor is a parent of the juvenile suspect. Therefore, the information at issue may not be withheld from this requestor under section 58.007(c). *See id.* § 58.007(e) (law enforcement records concerning a child may be inspected or copied by the child's parent or guardian). However, section 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). Therefore, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code.

Additionally, section 58.007(j)(2) provides 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 arguments under sections 552.108 and 552.148.

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 must reasonably explain how release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information relates to a pending criminal investigation that is awaiting potential prosecution. Based on this representation, we find release of the information you marked 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 describes 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, the department may withhold the information you have marked under section 552.108(a)(1).

Section 552.148 of the Government Code provides the following:

- (a) In this section, “minor” means a person younger than 18 years of age.
- (b) The following information maintained by a municipality for purposes related to the participation by a minor in a recreational program or activity is excepted from the requirements of Section 552.021:
  - (1) the name, age, home address, home telephone number, or social security number of the minor;
  - (2) a photograph of the minor; and
  - (3) the name of the minor’s parent or legal guardian.

Gov’t Code § 552.148. You state some information, which you have marked, contains personal information protected under section 552.148. Section 552.148 specifically applies to “information maintained by a municipality[.]” *Id.* § 552.148(b) (emphasis added). Because the department is not a municipality, section 552.148 of the Government Code will not apply in this instance, and the department may not withhold any information on this basis. *See Fitzgerald v. Advanced Spine Fixation Sys., Inc.*, 996 S.W.2d 864, 865-66 (Tex. 1999) (in interpreting statutes, goal of discerning legislature’s intent is served by beginning with statute’s plain language because it is assumed that legislature tried to say what it meant and its words are therefore surest guide to its intent); *see also City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 324 (Tex. App.—Austin 2002, no pet.) (*citing Sorokolit v.*

*Rhodes*, 889 S.W.2d 239, 241 (Tex. 1994)) (in applying plain and common meaning of statute, one may not by implication enlarge meaning of any word beyond its ordinary meaning, especially when one can discern legislative intent from reasonable interpretation of statute as written).

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. The department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The remaining information must be released.<sup>2</sup>

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](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,



Lauren Dahlstein  
Assistant Attorney General  
Open Records Division

LMD/eb

Ref: ID# 527592

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We note the requestor has a special right of access to the information being released in this instance. See Fam. Code § 58.007(e). Because such information is confidential with respect to the general public, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.