



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 26, 2014

Mr. Jose Hernandez  
Records Supervisor  
Edinburg Police Department  
1702 South Closner Boulevard  
Edinburg, Texas 78539

OR2014-17108

Dear Mr. Hernandez:

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# 537370 (Ref. No. 66366).

The Edinburg Police Department (the "department") received a request for report number 14-32162. You claim some of 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."<sup>1</sup> Gov't Code § 552.101. Section 552.101 encompasses information that other statutes make confidential, such as section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under 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* Fam. Code § 51.02(2). Section 58.007 provides in pertinent part as follows:

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

(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). Upon review, we find the submitted information involves juvenile conduct occurring after September 1, 1997; as such, this information constitutes a juvenile law enforcement record that is confidential under section 58.007(c) of the Family Code. *See id.* § 51.03(a), (b) (defining "delinquent conduct" and "conduct in need of supervision"). We note, however, the requestor in this instance is a parent of one of the juvenile suspects in the report at issue and has a right to inspect or copy law enforcement records concerning her child. *See id.* § 58.007(e). Section 58.007(j)(1) provides any personally identifiable

information concerning other juvenile suspects, offenders, victims, or witnesses must be redacted. *Id.* § 58.007(j)(1). Accordingly, the department must withhold the personally identifiable information concerning the other juvenile, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. *Id.*

Additionally, section 58.007(j)(2) of the Family Code provides information subject to any other exception to disclosure under the Act or other law must be redacted. *See id.* § 58.007(j)(2). Therefore, we will address whether the remaining information is otherwise excepted under the Act.

Section 552.101 of the Government Code also encompasses section 261.201 of the Family Code, which provides as follows:

(a) [T]he following information is confidential, is not subject to public release under [the Act] and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

...

(k) Notwithstanding Subsection (a), an investigating agency . . . on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

...

(2) any information that is excepted from required disclosure under [the Act], or other law[.]

*Id.* § 261.201(a), (k), (l)(2). The submitted information consists of files, reports, records, communications, audiotapes, videotapes, or working papers used or developed in an investigation under chapter 261 of the Family Code. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Family Code chapter 261); *see also id.* § 101.003(a) (defining “child” for purposes of section 261.201 of Family Code). Thus, we find the submitted information is confidential under section 261.201(a) of the Family Code.

We note, however, the requestor is the parent of one of the child victims. Further, the requestor is not alleged to have committed the suspected abuse. Therefore, the department may not use section 261.201(a) to withhold the information at issue from this requestor. *Id.* § 261.201(k). However, any information that is excepted from required disclosure under the Act or other law may still be withheld from disclosure. *Id.* § 261.201(l)(2). Therefore, we will consider your arguments 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). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

We understand you to assert the submitted information relates to a pending criminal prosecution. Based upon your representation and our review, we find the department has demonstrated release of the information you have 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 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*. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note basic information includes an arrestee’s identifying information, a detailed description of the offense, and the identity of the complainant, but does not include the identity of the victim, unless the victim is the complainant, nor does it include information related to a witness or to a suspect who was not arrested. *See* ORD 127

at 3-4. In this instance, you have marked the entire narrative portion of the incident report at issue as information you seek to withhold under section 552.108. The remaining information at issue does not contain information sufficient to satisfy the requirement that a "detailed description of the offense" be released as basic information. *See id.* Accordingly, we determine the department must release a sufficient portion of the narrative to encompass a detailed description of the offense. Thus, with the exception of the basic information, the department may withhold the remaining information you have marked under section 552.108(a)(1) of the Government Code.

In summary, the department must withhold the personally identifiable information concerning the juvenile who is not the requestor's child, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. With the exception of the basic information, which includes a detailed description of the offense but not the identity of the suspect who was not arrested, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The department must release the remaining submitted information.<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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

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<sup>2</sup>We note the information being released contains confidential information to which the requestor has a right of access. *See* Fam. Code §§ 58.007(e), 261.201(k). If the department receives another request for this information from a different requestor, then the department should again seek a decision from this office.

Ref: ID# 537370

Enc. Submitted documents

c: Requestor  
(w/o enclosures)