



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 29, 2007

Mr. Mark G. Mann
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046

OR2007-06617

Dear Mr. Mann:

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# 279670.

The Garland Police Department (the "department") received a request for specified police reports regarding three named individuals. You state that you have released the basic information from some of the submitted police reports. *See* Gov't Code § 552.108(c) (stating that basic information about arrested person, arrest, or crime may not be withheld under section 552.108 of the Government Code); *see also Houston Chronicle Publ'g 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); Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). You claim, however, that the remaining submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

You contend that police reports 2007003964, 2007003965, and 2007003968 are excepted in their entirety pursuant to section 552.101 of the Government Code, which 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

made confidential by other statutes, such as 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;

(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 Subchapter B.

Fam. Code § 58.007(c). Law enforcement records relating to juvenile conduct, whether be it delinquent conduct or conduct in need of supervision, that occurred on or after September 1, 1997 are confidential under section 58.007 of the Family Code. *See* Fam. Code § 51.03 (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of title 3 of the Family Code). However, section 58.007 is inapplicable when an incident does not involve a suspect or offender who is a “child” as defined by section 51.02 of the Family Code. A “child” is a person who is:

(A) ten years of age or older and under 17 years of age; or

(B) seventeen years of age or older and under 18 years of age who is alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision as a result of acts committed before becoming 17 years of age.

Fam. Code § 51.02(2). Here, only police report 2007003965 identifies a juvenile suspect engaged in delinquent conduct that occurred after September 1, 1997. Thus, this report falls within the purview of section 58.007(c) of the Family Code. Since it appears that none of the exceptions to disclosure in section 58.007 applies, this report is confidential pursuant to section 58.007(c) and must be withheld under section 552.101 of the Government Code. On the other hand, police reports 2007003964 and 2007003968 do not identify a juvenile suspect or offender. *See id.* We therefore find that police reports 2007003964 and 2007003968 are not juvenile law enforcement records made confidential under section 58.007 of the Family Code, and may not be withheld under section 552.101 on that basis.

You contend that the information you have marked in red in police reports 2007003964 and 2007003968 is excepted from disclosure under section 552.108(a)(1) of the Government Code. This section 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 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 inform us that these reports pertain to ongoing investigation because charges have been filed and that there has not been any disposition of these charges. Based on your representations, we conclude that the release of the information you have marked in red would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co.*, 531 S.W.2d 177 (court delineates law enforcement interests that are present in active cases). Accordingly, the department may withhold the information you have marked in red under section 552.108(a)(1) of the Government Code.

You claim that the information you have marked in green in police reports 2007003964 and 2007003968 is excepted from public disclosure under section 552.130 of the Government Code. In relevant part, section 552.130 provides that “[i]nformation is excepted from required public disclosure if the information relates to . . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state . . . [or] . . . a motor vehicle title or registration issued by an agency of this state[.]” Gov’t Code § 552.130(a)(1), (2). Upon review, we agree that the department must withhold the Texas-issued motor vehicle record information you have marked in green in police reports 2007003964 and 2007003968 pursuant to section 552.130 of the Government Code.

In summary, the department must withhold police report 2007003965 pursuant to section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. The department must also withhold the Texas-issued motor vehicle record information you have marked in green in police reports 2007003964 and 2007003968 under section 552.130 of the Government Code. The department may withhold the information you have marked in red in police reports 2007003964 and 2007003968 under section 552.108(a)(1) of the Government Code. As you do not raise any other exceptions against disclosure, the remaining information must be released.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the

governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Aries Solis
Assistant Attorney General
Open Records Division

AS/eeg

Ref: ID# 279670

Enc. Submitted documents

c: Mr. Jose Cordova
1433 Frio Circle
Garland, Texas 75040
(w/o enclosures)