



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 8, 2008

Mr. Jason Day
City Attorney
City of Royse City
P.O. Box 638
Royse City, Texas 75189

OR2008-01914

Dear Mr. Day:

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# 301880.

The City of Royse City (the "city") received a request for two specified police reports. You state that you have released some of the requested information. You claim that the 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 submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information protected by other statutes, such as section 58.007 of the Family Code. The relevant language of section 58.007 reads 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, 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.

Fam. Code § 58.007(c), (e), (j). In this instance, the information at issue relates to a domestic violence investigation that involved two adults and a juvenile witness. We note, however, that section 58.007(c) is not applicable to information that relates to a juvenile as a complainant, victim, witness, or other involved party; it is only applicable to juveniles listed as suspects or offenders. *See id.* § 58.007(c). Because a juvenile suspect is not involved, we find that report number 07-05-0112 is not made confidential under section 58.007(c) of the Family Code. You seek to withhold the identifying information pertaining to the juvenile witness under section 58.007(j). You assert that the requestor, in this instance, is not the juvenile witness and makes no claim that disclosure is authorized under section 58.007(e). Although, section 58.007(j) does require redaction of the identifying information of juvenile non-offenders, as we stated earlier, the submitted report does not constitute a juvenile law enforcement record pursuant to section 58.007 of the Family Code. Therefore, neither section 58.007(e) nor section 58.007(j) would apply to the marked information in report number 05-0112. The city must first show that the report is confidential under section 58.007(c). The requestor must then have a right of access to the report under section 58.007(e) before section 58.007(j) applies requiring redaction of other juveniles who are not the requestor's children. Accordingly, the city may not withhold the information marked in blue under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

Section 552.108(a) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) 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 Gov’t Code §§ 552.108(a)(1), .301(e)(1)(A); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that incident report number 07-04-0199 relates to a pending criminal investigation that is administratively closed. You further state that the statute of limitations has not run and that the investigation may be re-opened if new information develops. Based on your representation and our review, we agree that 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), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, the city may withhold the information marked in green based on section 552.108(a)(1) of the Government Code.

You assert that some of the remaining information is excepted under section 552.130 of the Government Code, which provides that information relating to a driver’s license issued by a Texas agency is excepted from public release. Gov’t Code § 552.130. We agree that the city must withhold the Texas driver’s license numbers you have marked in red under section 552.130 of the Government Code.

In summary, the city may withhold the information marked in green under section 552.108(a)(1) of the Government Code. The city must withhold the Texas driver’s license numbers marked in red under section 552.130 of the Government Code. The remaining information must be released to the requestor.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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 challenge 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,



Henisha D. Anderson
Assistant Attorney General
Open Records Division

HDA/mcf

Ref: ID# 301880

Enc. Submitted documents

c: Mr. Luis Ramirez
621 Granada
Garland, Texas 75043
(w/o enclosures)