



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 29, 2009

Chief Don Hatcher
City of Leander
705 Leander Drive
Leander, Texas 78641

OR2009-05702

Dear Chief Hatcher:

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# 341450.

The Leander Police Department (the "department") received a request for two specified incident reports and any other reports for a named individual, including one regarding a specified incident. You state you have released some of the responsive information to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code.¹ 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." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. Section 58.007 of the Family Code provides in part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise,

¹Although you cite section 552.101 for your argument to withhold social security numbers, we note that section 552.147 of the Government Code is the proper exception for this type of information.

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). The submitted reports pertain to a juvenile runaway. Thus, we find these reports involve a juvenile engaged in conduct in need of supervision. *See id.* § 51.03(b) (defining "conduct indicating a need for supervision" to include "the voluntary absence of a child from the child's home without the consent of the child's parent or guardian for a substantial length of time or without intent to return"). Therefore, the submitted information is subject to section 58.007(c). We note, however, that the requestor states he is the grandparent and "custodial parent thru court orders" of the juvenile. Thus, the requestor is the legal guardian of the juvenile offender in the submitted reports. Pursuant to section 58.007(e), the requestor may inspect or copy the submitted reports. *Id.* § 58.007(e). Accordingly, the department may not withhold the submitted reports under

section 552.101 in conjunction with section 58.007(c). However, section 58.007 of the Family Code provides 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 remaining arguments under section 552.108(a)(1) and 552.130.

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 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). In this instance, we note that you have submitted for review three police reports within Attachment B that are responsive to the present request for information. You indicate that case number 309626 relates to a pending investigation. Based upon this representation and our review, we conclude that the release of case number 309626 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, section 552.108(a)(1) is applicable to case number 309626.

However, section 552.108 of the Government Code 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; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the department may withhold case number 309626 under section 552.108(a)(1) of the Government Code.

Next, you claim that some of the remaining information is excepted from disclosure under section 552.130, which excepts from disclosure “information [that] 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). However, we note that the Texas driver’s license information at issue belongs to the requestor and his spouse. As such, the requestor has a right of access to his own Texas motor vehicle record information pursuant to section 552.023. *See id.* § 552.023. Furthermore, the requestor has a right of access to his spouse’s Texas driver’s license information, if he is acting as her authorized representative. *See id.* Thus, if the requestor is seeking the information as the authorized representative of his spouse, then he has a right of access to his spouse’s Texas driver’s license information, and the department may not withhold this information under section 552.130. If the requestor is not seeking the information as his spouse’s authorized representative, then the department must withhold his spouse’s Texas driver’s license information, which we have marked, under section 552.130.

In summary, the department may, with the exception of basic information, withhold case number 309626 pursuant to section 552.108(a)(1) of the Government Code. The department must withhold the information under section 552.130 of the Government Code if the requestor is not his spouse's authorized representative. The remaining information must be released.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Greg Henderson
Assistant Attorney General
Open Records Division

GH/rl

Ref: ID#341450

Enc. Submitted documents

c: Requestor
(w/o enclosures)