



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 17, 2009

Mr. Mark G. Mann
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR2009-11468

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# 352515 (GCA09-0441).

The Garland Police Department (the "department") received a request for all police reports and 9-1-1 call sheets involving the requestor's juvenile daughter from January 2008 through the date of the request. You state that the department has released some information. You claim that portions of the submitted information are 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 disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 58.007 of the Family Code, which provides for the confidentiality of juvenile law enforcement records related to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. *See* Open Records Decision No. 680 at 4 (2004); *see also* Fam. Code § 51.03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision"); 51.02(2) (defining "child" as a person who is ten years of age or older and under seventeen years of age at the time of the conduct). Section 58.007 provides in relevant part:

(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). Each of the submitted reports relates to juvenile delinquent conduct or juvenile conduct indicating a need for supervision that occurred after September 1, 1997. Therefore, section 58.007 applies to each submitted report. Reports 2009R000080, 2009R003145, and 2009R011010 are confidential under this section, and the city thus must withhold these reports in their entireties under section 552.101 of the Government Code. Each of the remaining reports at issue is generally subject to section 58.007, but the requestor, as parent of a juvenile who exhibited delinquent conduct

or conduct indicating a need for supervision, has the right to inspect or copy these reports pursuant to section 58.007(e). However, reports 2009R013350, 2009R003195, and 2009R013349 each also involve juvenile suspects, offenders, victims, or witnesses other than the requestor's children. Therefore, pursuant to section 58.007(j), the city must redact all personally identifiable information about other juvenile suspects, offenders, victims, or witnesses before allowing the requestor to inspect or copy these reports. Additionally, section 58.007(j)(2) provides that information subject to any other exception to disclosure under the Act or other law must also be redacted before a requestor is allowed to inspect or copy records pursuant to section 58.007(e). *See id.* § 58.007(j)(2). Accordingly, we will address your claim 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 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). Based on your representation that each of the reports subject to section 58.007(e) relates to an ongoing criminal investigation, we conclude that release of these reports 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. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

However, as you acknowledge, 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). Section 552.108(c) refers to the basic “front-page” information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-187; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the city may withhold each of the reports subject to section 58.007(e) under section 552.108(a)(1) of the Government Code.¹

In summary: (1) the city must withhold reports 2009R000080, 2009R003145, and 2009R011010 in their entirety under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code; (2) with the exception of basic information, the city may withhold the remaining reports at issue under section 552.108(a)(1) of the Government Code; (3) the city must redact the basic information to remove all personally identifiable information about juvenile suspects, offenders, victims, or witnesses

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure. However, we note that, because the requestor has a right of access to certain information that would be confidential with respect to a different requestor, the city must request another ruling from this office if it receives another request for this same information.

other than the requestor's children before allowing the requestor to inspect or copy this information.

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,



Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/rl

Ref: ID# 352515

Enc. Submitted documents

cc: Requestor
(w/o enclosures)