



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 6, 2009

Ms. Teresa J. Brown
Senior Open Records Assistant
Plano Police Department
P. O. Box 860358
Plano, Texas 75086-0358

OR2009-14051

Dear Ms. Brown:

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# 357424.

The Plano Police Department (the "department") received a request for a specified incident report. You state that the department will withhold portions of the requested information based upon a previous determination for withholding information under section 552.108(a)(1) granted by the ruling in *Office of the Attorney General v. Plano Police Department*, No. GV-001919 (126th Dist. Ct., Travis County, Tex., December 18, 2000). You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 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. This section encompasses information protected by other statutes, such as section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. The relevant language of section 58.007 reads:

(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). We have reviewed the submitted information and find it involves allegations of juvenile delinquent conduct in violation of a penal statute that occurred after September 1, 1997. Thus, this information is subject to section 58.007. However, we note that the requestor may be the parent or guardian of the juvenile offender listed on the report. If the requestor is not the parent or guardian of the juvenile offender listed in the report, then the submitted information must be withheld in its entirety under section 552.101 in conjunction with section 58.007 of the Family Code. However, to the extent the requestor is a legal guardian of the juvenile offender, she may inspect or copy any law enforcement records concerning her own child under section 58.007(e). *Id.* § 58.007(e). However,

section 58.007(j) 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). Therefore, because you assert that the submitted information is excepted under section 552.108 of the Government Code, we must address whether the information at issue is excepted under that section. *See id.* § 58.007(j)(2).

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.” 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 indicate that the submitted information relates to a pending criminal investigation. Based on this representation, we conclude that the release of this information 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). Thus, section 552.108(a)(1) is applicable to the information at issue.

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*). Thus, if the requestor is a parent or guardian of the juvenile suspect, then, with the exception of the basic front-page offense and arrest information, the department may withhold the submitted information under section 552.108(a)(1).

To conclude, if the requestor is not a parent or guardian of the juvenile suspect, then the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. If the requestor is a parent or guardian of the juvenile suspect, with the exception of basic information which must be released, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.

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, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Greg Henderson', with a long horizontal flourish extending to the right.

Greg Henderson
Assistant Attorney General
Open Records Division

GH/rl

Ref: ID#357424

Enc. Submitted documents

c: Requestor
(w/o enclosures)