



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 15, 2010

Ms. Ylise Janssen
Senior School Law Attorney
Office of the General Counsel
Austin Independent School District
1111 West Sixth Street
Austin, Texas 78703-5399

OR2010-03648

Dear Ms. Janssen:

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# 377406.

The Austin Independent School District (the "district") received a request for (1) the requestor's personnel file; (2) police reports concerning Widen Elementary School during specified time periods; and (3) the date a named individual began teaching at the same school. You claim that the submitted police reports are excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that you did not submit information responsive to items one and three of the request. We assume the district has released this information to the requestor. If it has not, it must do so at this time to the extent that such information was in existence on the date the district received the request. See Gov't Code §§ 552.301(a), .302; Open Records Decision No. 664 (2000) (noting that if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible under circumstances).

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. This section encompasses other statutes that make information confidential, such as section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are confidential under section 58.007, 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 Subchapters B, D, and E.

Fam. Code § 58.007(c). You claim that the submitted information is confidential under section 58.007(c). Upon review, we agree that Exhibits C and D pertain to juvenile delinquent conduct, so as to fall within the scope of section 58.007(c). *See id.* § 51.03(a) (defining “delinquent conduct” for purposes of title 3 of the Family Code); *see also id.* § 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). Thus, Exhibits C and D are confidential and must be withheld under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.¹ However, the suspects listed in Exhibit B are over the age of seventeen. Accordingly, section 58.007 of the Family Code is not applicable to the remaining information and the district may not withhold Exhibit B under section 552.101 of the Government Code on that basis.

You also seek to withhold the remaining information under section 552.108 of the Government Code. Section 552.108(a)(1) 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). You state that Exhibit B relates to a pending criminal case. Based on this representation, we conclude that release of the remaining 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

¹As our ruling is dispositive of this information, we need not address your remaining arguments against its disclosure.

delineates law enforcement interests that are present in active cases). Accordingly, we find that section 552.108(a)(1) is applicable to Exhibit B.

We note that 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 district may withhold Exhibit B under section 552.108(a)(1) of the Government Code.²

In summary, to the extent that such information was in existence on the date the district received the request, information responsive to items one and three of the request must be released to the requestor. Exhibits C and D must be withheld under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. With the exception of basic information that must be released, the district may withhold Exhibit B 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

²As our ruling is dispositive, we need not address your remaining argument for this information, except to note that, generally, basic information held to be public in *Houston Chronicle* is not excepted from public disclosure under section 552.103 of the Government Code. Open Records Decision No. 597 (1991).

Ref: ID# 377406

Enc. Submitted documents

c: Requestor
(w/o enclosures)