



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 31, 2010

Mr. B. Chase Griffith
Brown & Hofmeister, L.L.P.
Attorney for Town of Flower Mound
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2010-04552

Dear Mr. Griffith:

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# 374893.

The Town of Flower Mound (the "town"), which you represent, received a request for police records related to a particular address and period of time, including three specified reports. You claim 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.

Initially, we note a portion of the submitted information, which we have marked, is not responsive to the instant request because it does not pertain to the address specified in the request. The town need not release nonresponsive information in response to this request and this ruling will not address that 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 information protected by other statutes, 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 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 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:

...

- (2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law.

Fam. Code § 58.007(c), (e), (j). For purposes of section 58.007, "child" means a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). You assert the submitted information consists of reports of juveniles engaged in delinquent conduct and conduct indicating a need for supervision. *See id.* § 51.03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision"). Upon review, we agree submitted report number 08049187 involves a juvenile engaged in delinquent conduct and report number 08026724 involves a juvenile engaged in conduct indicating a need for supervision; therefore, these reports are within in the scope of section 58.007. As it does not appear any of the exceptions to confidentiality under section 58.007(e) apply, report number 08026724 must be withheld in its entirety under section 552.101 in conjunction with section 58.007 of the Family Code.

However, we note the requestor may be a parent or guardian of the juvenile offender listed in report number 08049187. If the requestor is a parent or guardian of the juvenile offender listed in this report, he may inspect or copy such law enforcement records concerning his own child under section 58.007(e). *Id.* § 58.007(e). However, section 58.007(j) provides information subject to any other exception to disclosure under the Act or other law must be redacted. *See id.* § 58.007(j)(2). Therefore, if the requestor is not the parent or legal guardian of the juvenile suspect listed in report number 08049187, that report must also be withheld in its entirety under section 552.101 in conjunction with section 58.007 of the Family Code. If the requestor is the parent or legal guardian of the juvenile suspect listed in report number 08049187, we will consider your claim under section 552.108 of the Government Code.

You also claim the remaining reports are excepted from disclosure under section 58.007. However, we note section 58.007(c) does not apply to law enforcement records that relate to a juvenile only as a complainant, victim, witness, or other involved party; rather the juvenile must be involved as a suspect, offender, or defendant. Upon review, the remaining reports do not identify a juvenile as a suspect, offender, or defendant. *See id.* § 51.03(a), (b). Therefore, none of the remaining reports may be withheld under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

You claim section 552.108 of the Government Code for report number 08049187, as well as the remaining responsive reports. Section 552.108(a)(2) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(a)(2). Section 552.108(a)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in a conviction or a deferred adjudication. A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A). You assert the information at issue pertains to closed investigations that did not result in convictions or deferred adjudication. Based on your representations, we agree section 552.108(a)(2) is applicable to the reports at issue.

We note 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 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). *See* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note some of the information at issue consists of computer aided dispatch (“CAD”) reports. In Open Records Decision No. 649 (1996), this office concluded that information contained in a CAD report is substantially the same as basic information. *See* ORD 649 at 3; *see also* Open Records Decision No. 394 at 3 (1983) (there is no qualitative difference between information contained in radio cards or radio logs and front page offense report information expressly held to be public in *Houston*

Chronicle, and, thus, such information is generally public). Therefore, with the exception of basic information, the town may withhold the remaining responsive reports under section 552.108(a)(2) of the Government Code.

In summary, report number 08026724 must be withheld in its entirety under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. If the requestor is not the parent or legal guardian of the juvenile suspect listed in report number 08049187, the town must also withhold this report in its entirety under section 552.101 in conjunction with section 58.007. If the requestor is the parent or legal guardian of the juvenile offender listed in report number 08049187, then, apart from basic information, the town may withhold that report under section 552.108(a)(2) of the Government Code. Apart from basic information, the town may withhold the remaining responsive reports under section 552.108(a)(2) 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,



Matt Entsminger
Assistant Attorney General
Open Records Division

MRE/rl

Ref: ID# 374893

Enc. Submitted documents

c: Requestor
(w/o enclosures)