



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 2, 2010

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

OR2010-09830

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# 385085.

The Garland Police Department (the "department") received a request for a copy of the report related to ticket number P4843061. You claim the submitted report 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 report.

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. Section 58.007 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.

...

(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). Report number 0906100086 involves a juvenile engaged in delinquent conduct occurring after September 1, 1997; therefore, the submitted report is subject to section 58.007. *See id.* § 51.03(a) (defining "delinquent conduct" for purposes of Family Code section 58.007). We note, however, the requestor may be the parent or guardian of the juvenile offender in the submitted report. If the requestor is not the parent or guardian of the juvenile offender, then the department must withhold the report in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. If the requestor is the parent or guardian of the juvenile offender at issue, the department cannot withhold the report from her under section 58.007(c). *See id.* § 58.007(e). However, personally identifiable information concerning any other juvenile suspects, offenders, victims, or witnesses must be redacted pursuant to section 58.007(j)(1) of the Family Code. *See id.* § 58.007(j)(1). Thus, the department must withhold the identifying information of the juvenile victim, which you marked in purple, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1). Furthermore, section 58.007(j)(2) provides information subject to any other exception to disclosure under the Act or other law must also be redacted. *Id.* § 58.007(j)(2). Thus, because you assert portions of the submitted report are excepted under section 552.108 of the Government Code, we will address your argument under this exception. *See id.*

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). You state the submitted report pertains to an ongoing investigation. Based upon your representations and our review, we conclude the release of the information you marked in red 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). Therefore, the department may withhold the information you marked in red under section 552.108(a)(1).

In summary, if the requestor is not the parent or guardian of the juvenile offender listed in the report, the report must be withheld in its entirety pursuant to section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. If the requestor is the parent or guardian of the juvenile offender listed in the report, the department 1) must withhold the information you marked in purple under section 552.101 of the Government Code in conjunction with section 58.007(j) of the Family Code, 2) may withhold the information you marked in red under section 552.108(a)(1) of the Government Code, and 3) must release the remaining 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, toll free, at (888) 672-6787.

Sincerely,



Jessica Eales
Assistant Attorney General
Open Records Division

JCE/eeg

Ref: ID# 385085

Enc. Submitted documents

c: Requestor
(w/o enclosures)