



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 26, 2010

Ms. Carolyn M. Hanahan
General Counsel
Fort Bend Independent School District
16431 Lexington Boulevard
Sugar Land, Texas 77479

OR2010-11166

Dear Ms. Hanahan:

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# 387830.

The Fort Bend Independent School District (the "district") received a request for a police report involving the requestor's son. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code.¹ 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 information protected by other statutes, such as section 58.007 of the Family Code, which 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:

¹While you do not explicitly raise section 552.101 of the Government Code in your brief, based on your arguments we understand you to assert section 552.101.

(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.

Fam. Code § 58.007(c), (e), (j). Juvenile law enforcement records relating to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997 are confidential under section 58.007. *Id.* § 58.007(c). The submitted information involves juvenile delinquent conduct that occurred after September 1, 1997. *See id.* § 51.03(a) (defining "delinquent conduct" for purposes of section 58.007). Therefore, section 58.007 is applicable to this information. However, a governmental body may not withhold a child's law enforcement records from a parent under section 58.007(c). *Id.* § 58.007(e). The requestor represents he is the father of one of the juvenile offenders listed in the report. Consequently, the submitted information may not be withheld from this requestor in its entirety under section 58.007. However, pursuant to section 58.007(j)(2), a governmental body may raise other exceptions to disclosure. *Id.* § 58.007(j)(2).

Accordingly, we will address your argument under section 552.108(a)(1) against disclosure of the remaining information.

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 represent the submitted information is related to a pending criminal matter, and that release of this information at this time would interfere with the detection, investigation, or prosecution of a crime. We note the submitted information includes two citations, which we have marked. Because copies of these citations were provided to the individuals who were cited, we find release of the citations will not interfere with the detection, investigation, or prosecution of crime. *See Gov’t Code* § 552.108(a)(1). Accordingly, the district may not withhold the marked citations under section 552.108(a)(1). Based on your representations and our review, however, we agree release of most 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. 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).

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*, and includes a detailed description of the offense. *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, with the exception of basic information and the submitted citations, the district may withhold the submitted information under section 552.108(a)(1) of the Government Code.² However, section 58.007(j)(1) states that, before information is released to a parent or guardian under section 58.007(e), a custodian of records must redact any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the parent or guardian’s child. Fam. Code § 58.007(j)(1). One of the submitted citations contains identifying information of a juvenile offender who is not the requestor’s child. Thus, in releasing this citation, the district must withhold the personally identifiable information we marked concerning a juvenile offender who is not the requestor’s child under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. The other citation must be released in its entirety along with basic information.

²We note the requestor has a special right of access to the information being released. Because such information is confidential with respect to the general public, if the district receives another request for this information from a different requestor, the district must again seek a ruling from this office.

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 'Bob Davis', with a long, sweeping underline.

Bob Davis
Assistant Attorney General
Open Records Division

RSD/eeg

Ref: ID# 387830

Enc. Submitted documents

cc: Requestor
(w/o enclosures)