



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 26, 2010

Ms. Jessica Sangsvang
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Forth Worth, Texas 76102

OR2010-13045

Dear Ms. Sangsvang:

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# 397304.

The City of Fort Worth (the "city") received a request for incident report number 10-55498. 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.

Section 552.101 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 confidentiality provisions such as section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 may not be disclosed under section 58.007(c) except if the requestor is the child or the child's parent. Fam. Code § 58.007(c), (e). 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.

Id. The information at issue involves juvenile conduct that occurred after September 1, 1997. It appears section 58.007(e) applies in this instance because the requestor is the father of the juvenile offender.

However, “[b]efore 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(j)(1), (2).

Under section 58.007(j)(2) of the Family Code, the city raises section 552.108 of the Government Code which states information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure “if release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a)(1). The city explains the Tarrant County District Attorney’s Office objects to the release of the report because it relates to their pending investigation. We agree release of the information at this time would interfere with the ongoing investigation. Therefore, based on the city’s representations, the city may withhold the incident report from disclosure under section 552.108(a)(1).

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 the identification and description of the complainant. *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); Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of the basic

front page offense and arrest information, the city may withhold the requested information from disclosure based on section 552.108(a)(1).

Because the complainant's identity is basic information that is not excepted from disclosure by section 552.108 of the Government Code, before releasing the basic information, the city must redact any information that identifies or tends to identify a juvenile victim other than the requestor's child. Fam. Code § 58.007(j)(1). Accordingly, the city must redact the personally identifiable information of the juvenile victim we marked and you marked in yellow highlighter.

In summary, the city may withhold the report, except for the basic front page offense and arrest information, under section 552.108(a)(1) of the Government Code. In releasing the basic information, the city must redact the personally identifiable information of the juvenile victim we marked and you marked in yellow highlighter under section 58.007(j)(1) of the Family 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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/eeg

Ref: ID# 397304

Enc. Submitted documents

c: Requestor
(w/o enclosures)