



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 28, 2010

Mr. Jose Hernandez
Records Clerk
Edinburg Police Department
1702 South Closner Boulevard
Edinburg, Texas 78539

OR2010-14717

Dear Mr. Hernandez:

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# 395140 (Reference No. 11800).

The Edinburg Police Department (the "department") received a request for a specified report. You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. 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, including section 58.007 of the Family Code, which provides for the confidentiality of juvenile law enforcement records related to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. *See* Open Records Decision No. 680 at 4 (2004); *See also* Fam. Code §§ 51.03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision"), .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). Section 58.007 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:

(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). The submitted information is a law enforcement record that involves juveniles accused of delinquent conduct that occurred after September 1, 1997; therefore, the submitted report is subject to section 58.007(c). However, it appears that the requestor may be the parent of one of the juvenile offenders in the submitted report. Under section 58.007(e), a child's parent has a right to inspect or copy law enforcement records concerning her own child. *See id.* § 58.007(e). Accordingly, if the requestor is not the parent of the juvenile offender, then the department must withhold the submitted report in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

However, if the requestor is the parent of one of the juvenile offenders listed in the submitted report, the requestor has a right to inspect law enforcement records concerning her child under section 58.007(e). *See id.* 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). Additionally, section 58.007(j)(2) also provides that information subject to any other exception to

disclosure under the Act or other law must be redacted. *See id.* § 58.007(j)(2). Accordingly, we will address your claims under sections 552.108 and 552.130 of the Government Code.

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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information relates to a pending criminal investigation. Based upon your representation and our review, we find that section 552.108(a)(1) is applicable to the submitted information. *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*. *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*). We note you seek to withhold the entire narrative portion of the submitted report under section 552.108. However, the remaining portions of the report do not contain information sufficient to satisfy the requirement that a “detailed description of the offense” be released as basic information. *Id.* Accordingly, we determine that the department must release a sufficient portion of the narrative to encompass a detailed description of the offense to satisfy the required release of basic information pursuant to *Houston Chronicle*. We also note that basic information includes identifying information of the arrestees. *Id.* Thus, with the exception of the basic information, the department may withhold the information you have marked under section 552.108(a)(1). However, in releasing basic information, the department must withhold the identifying information of the other juvenile arrestee, which we have marked, pursuant to section 58.007(j)(1) of the Family Code.

Section 552.130 excepts from disclosure information that relates to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state. Gov’t Code § 552.130(a)(1). Thus, the department must withhold the information you have marked under section 552.130 of the Government Code.¹

¹We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas license driver’s license number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

In summary, if the requestor is not the parent of one of the juvenile offenders listed in the submitted report, then the department must withhold the submitted 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 of one of the juvenile offenders listed in the submitted report, with the exception of basic information, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. In releasing basic information, the department must withhold the identifying information of the other juvenile arrestee, which we have marked, pursuant to section 58.007(j)(1) of the Family Code. The department must withhold the information you have marked under section 552.130 of the Government Code. The remaining information must be released.

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,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

Ref: ID# 395140

Enc. Submitted documents

c: Requestor
(w/o enclosures)