



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 30, 2010

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

OR2010-14910

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# 399940.

The Edinburg Police Department (the "department") received a request for two specified incident reports. You claim the requested 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 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 section 58.007 of the Family Code. Juvenile law enforcement records relating to delinquent conduct that occurred on or after September 1, 1997 are confidential under section 58.007 of the Family Code. Section 58.007(c) provides as follows:

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.

Fam. Code § 58.007(c). For purposes of section 58.007, “child” means a person who is ten years of age or older and under seventeen years of age at the time of the reported conduct. *See id.* § 51.02(2); *see also id.* § 58.007. Upon review, we agree that incident report number 10-41218 pertains to juvenile delinquent conduct that occurred after September 1, 1997. Thus, this report is subject to section 58.007(c). It does not appear that any of the exceptions in section 58.007 of the Family Code apply. Therefore, incident report number 10-41218 is confidential pursuant to section 58.007(c) of the Family Code and must be withheld under section 552.101 of the Government Code.<sup>1</sup>

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 that incident report number 10-42908 relates to a pending criminal investigation and prosecution. Based on your representations and our review of the information at issue, we conclude that the department has demonstrated that release of incident report number 10-42908 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. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Therefore, the department may generally withhold incident report number 10-42908 under section 552.108(a)(1) of the Government Code.

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). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88;

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<sup>1</sup>As our ruling is dispositive, we do not address your remaining argument for this information.

Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Therefore, with the exception of basic information, the department may withhold incident report number 10-42908 under section 552.108(a)(1) of the Government Code.

In summary, the department must withhold incident report number 10-41218 under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. With the exception of basic information, the department may withhold incident report number 10-42908 under section 552.108 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](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,



Tamara H. Holland  
Assistant Attorney General  
Open Records Division

THH/em

Ref: ID# 399940

Enc. Submitted documents

c: Requestor  
(w/o enclosures)