



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 8, 2010

Mr. Charles Weir
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2010-16925

Dear Mr. Weir:

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# 399600.

The City of San Antonio (the "city") received a request for information related to a specified incident. You claim that 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 of the Government Code encompasses section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007(c). For purposes of section 58.007(c), "child" means a person who is ten years of age or older and under seventeen years of age. *Id.* § 51.02(2). The relevant language of section 58.007(c) 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.

...

(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). You claim the submitted report is subject to section 58.007. Upon review, we agree this report identifies a juvenile suspect alleged to have engaged in delinquent conduct that occurred after September 1, 1997. *See id.* § 51.03(a) (defining "delinquent conduct"). However, as you acknowledge, the requestor in this instance is the step-mother of the juvenile suspect in the submitted report. Under section 58.007(e), a child's parent or guardian has a right to inspect or copy law enforcement records concerning her child. *See id.* § 58.007(e). Because we are unable to determine, however, whether the requestor is the parent or guardian of the juvenile offender, so as to have a right to inspect law enforcement records concerning the juvenile pursuant to section 58.007(e), we must rule conditionally.

Thus, if the requestor is not the parent or guardian of this juvenile suspect, then the submitted information must be withheld in its entirety under section 552.101 in conjunction with section 58.007 of the Family Code. However, to the extent the requestor is the parent or guardian of the juvenile suspect listed in the submitted report, she may inspect or copy any law enforcement records concerning the child under section 58.007(e). *Id.* § 58.007(e). We note, however, section 58.007(j)(1) requires the redaction of any personally identifiable information concerning other juvenile suspects, offenders, victims, or witnesses. *See id.* § 58.007(j)(1). In addition, section 58.007(j)(2) 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). Because you assert the submitted information is subject to section 552.108, we will consider the applicability of this exception.

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 information pertains to an pending criminal case. Further, you state release of this information would interfere with the detection, investigation, or prosecution of crime. Thus, based on your representations and our review, we agree section 552.108(a)(1) is generally applicable to the submitted information. *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., 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). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle* and includes the identity of the complainant. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Accordingly, with the exception of basic information, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code. However, in releasing basic information, the city must withhold the identifying information of the juvenile victim, who is also the complainant, we have marked, pursuant to section 58.007(j)(1) of the Family Code.

In summary, if the requestor is not the parent or guardian of the juvenile suspect in the submitted report, then the city must withhold the submitted information in its entirety under section 552.101 in conjunction with section 58.007(c) of the Family Code. In the event the requestor is the parent or guardian of the juvenile suspect in the submitted report, with the exception of basic information, the city may withhold the submitted information under

section 552.108(a)(1) of the Government Code. In releasing basic information, the city must withhold the identifying information of the juvenile victim, which we have marked, pursuant to 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,



Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/dls

Ref: ID# 399600

Enc. Submitted documents

c: Requestor
(w/o enclosures)