



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 1, 2010

Mr. Mack Reinwand
Assistant Police Legal Advisor
Arlington Police Department
P.O. Box 1065
Arlington, Texas 76004-1065

OR2010-18002

Dear Mr. Reinwand:

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# 401540 (Police Dept. Ref. No. 1998-091410).

The Arlington Police Department (the "department") received a request for three 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 information protected by other statutes, such as 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. 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. *See* Fam. Code § 51.02(2). 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.

...

(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). Upon review, we agree the submitted reports involve juveniles engaged in delinquent conduct occurring after September 1, 1997; therefore, the submitted reports are subject to section 58.007. We note the requestor's child is not a juvenile offender listed in incident report number 10-57331. You do not indicate, nor does it appear, that any of the exceptions in section 58.007 of the Family Code apply to this report. Thus, incident report number 10-57331 is subject to section 58.007(c), and must be withheld in its entirety under section 552.101 of the Government Code.

However, the requestor is the parent of one of the juvenile offenders in incident report numbers 10-43752 and 10-58918. Under section 58.007(e), the requestor has a right to inspect or copy law enforcement records concerning her child. *See id.* § 58.007(e). Section 58.007(j) provides, however, that any personally identifiable information concerning

other juvenile suspects, offenders, victims, or witnesses must be redacted. *See id.* § 58.007(j)(1). Further, section 58.007(j)(2) provides information subject to any other exception to disclosure under the Act or other law must be redacted. *See id.* § 58.007(j)(2). Thus, we will address your claim under section 552.108 of the Government Code for incident report numbers 10-43752 and 10-58918.

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). Generally, a governmental body claiming section 552.108(a)(1) 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 inform us that incident report numbers 10-43752 and 10-58918 relate to open criminal cases. Based upon your representations and our review, we conclude that the release of these reports 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.*, 536 S.W.2d 559 (Tex. 1976) (per curiam) (court delineates law enforcement interests that are present in active cases). Thus, section 552.108(a)(1) is applicable to incident report numbers 10-43752 and 10-58918.

However, basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. Gov’t Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the department may withhold incident report numbers 10-43752 and 10-58918 under section 552.108(a)(1) of the Government Code. However, the department may not release as basic information any personally identifiable information concerning any juvenile suspect, offender, victim, or witness other than the juvenile offender to whom the requestor is a parent. *See* Fam. Code § 58.007(j)(1).

In summary, the department must withhold incident report number 10-57331 in its entirety 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 numbers 10-43752 and 10-58918 under section 552.108(a)(1) of the Government Code.¹ However, in releasing basic information, the department must redact the identifying information of the offenders who are not the requestor’s child pursuant to

¹Because the requestor has a right of access to certain information being released that otherwise would be excepted from release under the Act, the department must again seek a decision from this office if it receives a request for this information from a different requestor.

section 552.101 of the Government Code in conjunction with 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,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/tp

Ref: ID# 401540

Enc. Submitted documents

c: Requestor
(w/o enclosures)