



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 7, 2011

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

OR2011-00436

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# 405277 (Fort Worth PIR No. W004481).

The City of Fort Worth (the "city") received a request for a specified report. You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception 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."¹ Gov't Code § 552.101. This exception encompasses information that other statutes make confidential, such as section 58.007 of the Family Code, which provides in 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

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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:

...

(2) any information that is excepted from required disclosure under [the Act] or other law.

Fam. Code § 58.007(c), (e), (j); *see id.* § 51.03(a)-(b) (defining "delinquent conduct" and "conduct indicating need for supervision" for purposes of Fam. Code tit. 3). Section 58.007(c) is applicable to records of juvenile conduct that occurred on or after September 1, 1997. The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See id.* § 51.02(2) (defining "child" for purposes of Fam. Code tit. 3).

Upon review, we find the submitted report involves a juvenile suspect, so as to be generally confidential under section 58.007(c) of the Family Code. We note, however, that the requestor is the juvenile's mother and has a right to inspect law enforcement records concerning the juvenile pursuant to section 58.007(e). *See id.* § 58.007(e). Thus, the submitted report may not be withheld under section 552.101 of the Government Code on the basis of section 58.007(c). However, section 58.007(j) 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). You assert the submitted information is excepted from public disclosure under section 552.108 of the Government Code. Thus, we will consider your remaining argument under section 552.108.

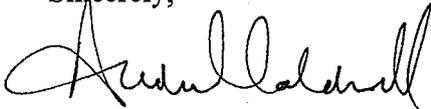
Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or

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(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 submitted an affidavit from the Tarrant County District Attorney’s Office (the “district attorney”) which states that the juvenile at issue was prosecuted, adjudicated delinquent, and received probation. The district attorney explains that “[s]hould the offender fail to comply with the terms and conditions of his probation, the case may be reopened by the [district attorney] for filing of a Motion to Modify with the Juvenile Court.” However, after reviewing your representations and the submitted information, we find that the district attorney has failed to adequately demonstrate that the information pertains to an ongoing criminal investigation or prosecution or that the release of the information would otherwise interfere with the detection, investigation, or prosecution of crime. Accordingly, we conclude that the city may not withhold the submitted information under section 552.108(a)(1) of the Government Code. As no further exceptions to disclosure are raised, the submitted information must be released to this requestor.²

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,



Andrea L. Caldwell
Assistant Attorney General
Open Records Division

ALC/eeg

²Because this requestor has a special right of access to the information being released that would ordinarily be confidential, the city must again seek a decision from this office if it receives another request for the same information from a different requestor.

Ref: ID# 405277

Enc. Submitted documents

c: Requestor
(w/o enclosures)