



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 15, 2011

Mr. Jason Day  
City Attorney  
City of Royse City  
P.O. Box 638  
Royse City, Texas 75189

OR2011-03536

Dear Mr. Day:

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# 416163 (RCCA11-0018).

The City of Royse City (the "city") received a request for information relating to a specified incident number. You state some of the requested information has been released. You claim the rest of 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 information you submitted.

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. This exception encompasses information other statutes make confidential. You claim section 552.101 in conjunction with 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 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.

Fam. Code § 58.007(c), (e), (j). Section 58.007(c) is applicable to records of juvenile conduct that occurred on or after September 1, 1997. *See* Act of June 2, 1997, 75<sup>th</sup> Leg., R.S., ch. 1086, §§ 20, 55(a), 1997 Tex. Gen. Laws 4179, 4187, 4199; Open Records Decision No. 644 (1996). Section 58.007(c) is not applicable to information that relates to a juvenile as a complainant, victim, witness, or other involved party and not as a suspect or offender.

We find the submitted information involves three juvenile suspects, so as to fall within the scope of section 58.007(c). In this instance, however, the requestor is a parent of two of the juvenile suspects involved. Therefore, under section 58.007(e), the requestor has a right to inspect law enforcement records concerning his children. *See id.* § 58.007(e). Section 58.007(j)(1) provides, however, that any personally identifiable information concerning another juvenile suspect, offender, victim, or witness must be redacted. *See id.* § 58.007(j)(1). For purposes of section 58.007(j), a juvenile suspect or offender is a child

as defined by section 51.02 of the Family Code. *See id.* § 51.02(2) (“child” means a person who is ten years of age or older and under seventeen years of age). Thus, we conclude the city must withhold the information relating to the third juvenile suspect you have marked in blue, along with the additional information relating to the third juvenile we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. Section 58.007(j) further provides that information subject to any other exception to disclosure under the Act or other law must also be redacted. *See id.* § 58.007(j)(2). Accordingly, we will address your claim under section 552.108 of the Government Code.

Section 552.108 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 must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state release of the remaining information you have marked in green would interfere with a pending criminal case. Based on your representations, we conclude the city may withhold the information in question under section 552.108(a)(1) of the Government Code. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

In summary: (1) the city must withhold the information relating to the third juvenile suspect you have marked in blue and the additional information relating to the third juvenile we have marked under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code; and (2) the city may withhold the remaining information you have marked in green under section 552.108(a)(1) of the Government Code.<sup>1</sup>

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.

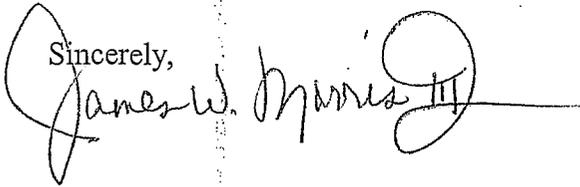
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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

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<sup>1</sup>We note this requestor has a right of access to information the city would be required to withhold from the general public. Should the city receive another request for this same information from a different requestor, the city should resubmit this information and request another decision. *See* Gov’t Code §§ 552.301(a), .302.

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,

A handwritten signature in black ink that reads "James W. Morris III". The signature is written in a cursive style with a long horizontal line extending to the right.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/em

Ref: ID# 416163

Enc: Submitted documents

c: Requestor  
(w/o enclosures)