



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 15, 2011

Ms. Jerris Penrod Mapes
Assistant City Attorney
City of Killeen
3304 Community Boulevard
Killen, Texas 76542

OR2011-08485

Dear Ms. Mapes:

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# 420689.

The Killeen Police Department (the "department") received a request for records pertaining to a specified case and any records concerning the requestor and her daughter. You state the department has released most of the requested information. You claim the submitted reports are 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." Gov't Code § 552.101. This exception encompasses information protected by other statutes, such as section 58.007 of the Family Code, which protects juvenile law enforcement records relating to delinquent conduct that occurred on or after September 1, 1997. *See* Fam. Code §§ 58.007(c), 51.03(a) (defining "delinquent conduct"). Although report 11-000332 pertains to a child suspected of committing theft in 2011, the requestor is the mother of the child suspect. As such, pursuant to section 58.007(e), the department may not withhold report 11-000332 from the requestor under section 58.007(c) of the Family Code. *See id.* § 58.007(e) (providing law enforcement records subject to section 58.007(c) may be inspected or copied by child's parent). Because section 58.007(j)(2) provides that, notwithstanding section 58.007(e), any information that is excepted from required disclosure under Chapter 552, Government Code, or other law may still be withheld from disclosure,

we will address your argument under section 552.108(a)(2) of the Government Code for report 11-000332. *See id.* § 58.007(j)(2).

You raise section 552.108(a)(1) of the Government Code for report 11-003889. 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). 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 report 11-003889 pertains to an investigation that has not been completed and release at this time would hinder the ability of detectives to conduct a thorough investigation. Based on your representation and our review, we agree you have established the applicability of section 552.108(a)(1) to report 11-003889. *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 that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

You claim report 11-000332 is excepted from disclosure under section 552.108(a)(2) of the Government Code. This section excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(a)(2). Section 552.108(a)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in a conviction or deferred adjudication. As noted above, a governmental body claiming an exception to disclosure under section 552.108 must reasonably explain how and why this exception applies to the information it seeks to withhold. *See id.* § 552.301(e)(1)(A); *see Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state no charges were filed regarding the investigation in report 11-000332 and the investigation ended in a result other than conviction or deferred adjudication. Based on your representations and our review, we agree section 552.108(a)(2) is applicable to report 11-000332.

We note, 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). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). Thus, with the exception of basic information, the department may withhold report 11-003889 under

section 552.108(a)(1) of the Government Code, and report 11-000332 under section 552.108(a)(2) of the Government Code.¹

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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/eb

Ref: ID# 420689

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹If the department receives another request report 11-000332 from a different requestor, then it should again seek a decision from this office.