



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 27, 2011

Ms. Linda M. Champion  
Assistant City Attorney  
City of Victoria  
P.O. Box 1758  
Victoria, Texas 77902-1758

OR2011-14007

Dear Ms. Champion:

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# 431258.

The City of Victoria (the "city") received a request for a specified case report involving a named individual. You claim the submitted 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 that other statutes make confidential, 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). Section 58.007 provides in pertinent part 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 find the submitted report involves a juvenile engaged in delinquent conduct occurring after September 1, 1997; therefore, the submitted report is subject to section 58.007. However, the requestor is a parent of the juvenile offender listed in the report. Under section 58.007(e), a child's parent has a right to inspect or copy law enforcement records concerning his own child. *See id.* § 58.007(e). However, 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). Thus, we will address your claims under sections 552.101 and 552.108 of the Government Code.

Section 552.108(a)(2) 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 . . . 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). 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). We understand the submitted information concerns a closed investigation that did not result in conviction or deferred adjudication. Accordingly, we conclude section 552.108(a)(2) of the Government Code is applicable to the submitted information.

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 deemed public by *Houston Chronicle*). We note that basic information does not include victim-identifying information, unless the victim is also the complainant. *See id.* at 3-4. In this instance, because the victim is also the complainant, the victim’s identifying information is part of basic information. Thus, with the exception of basic information, the city may withhold the information at issue under section 552.108(a)(2) of the Government Code.

You contend the victim’s personal information is protected under section 552.101 of the Government Code in conjunction with subchapter A of chapter 56 of the Code of Criminal Procedure. Chapter 56 of the Code of Criminal Procedure provides certain rights for crime victims. You quote article 56.02(a)(1), which states victims are entitled “the right to receive from law enforcement agencies adequate protection from harm and threats of harm arising from cooperation with prosecution efforts[.]” Crim. Proc. Code art. 56.02(a)(1). We note, however, article 56.02 does not make information confidential. *See* Open Records Decision Nos. 658 at 4 (1998) (statutory confidentiality must be express, and confidentiality requirement will not be implied from statutory structure), 478 at 2 (1987) (as general rule, statutory confidentiality requires express language making information confidential). Therefore, you have not established, and it is not otherwise apparent to this office, how article 56.02 of the Code of Criminal Procedure makes victim identifying information confidential. We therefore conclude the city may not withhold the information at issue under section 552.101 of the Government Code on that basis.

In summary, with the exception of basic information, the city may withhold the submitted information under section 552.108(a)(2) of the Government Code.<sup>1</sup>

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<sup>1</sup>We note that the requestor has a special right of access to the information being released. Because such information is confidential with respect to the general public, if the city receives another request for this information from a different requestor, the city must again seek a ruling from this office.

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 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 cursive script that reads "Kirsten Brew".

Kirsten Brew  
Assistant Attorney General  
Open Records Division

KB/em

Ref: ID# 431258

Enc. Submitted documents

c: Requestor  
(w/o enclosures)