



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 18, 2011

Mr. Jeffrey L. Moore  
For City of The Colony  
Brown & Hofmeister, L.L.P.  
740 East Campbell Road, Suite 800  
Richardson, Texas 75081

OR2011-17086

Dear Mr. Moore:

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# 437144.

The Colony Police Department (the "department"), which you represent, received a request for all incident reports at a specified address from July 20, 2011 through September 7, 2011. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.137 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 section 58.007 of the Family Code, which provides in relevant 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.

Fam. Code § 58.007(c). Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007(c). *See id.* § 51.03(a) (defining “delinquent conduct”). For purposes of section 58.007, a “child” is a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). Upon review, we find report number 2011-00013120 pertains to a criminal trespass warning issued after September 1, 1997. You inform us the offender in this report was between the ages of ten and seventeen at the time of the incident. However, the report does not indicate the age of the offender involved. Because we are unable to determine the age of the offender involved in this record, we must rule conditionally. To the extent report number 2011-00013120 constitutes a record of a juvenile offender engaged in delinquent conduct who is ten years of age or older and under seventeen years of age at the time of the commission of the crime, it is confidential pursuant to section 58.007 and must be withheld under section 552.101. However, to the extent this report pertains to an offender who is not ten years of age or older and under seventeen years of age at the time of the commission of the crime, the department may not withhold it under section 552.101 on the basis of section.

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). 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 state report numbers 2011-00011626, 2011-00013234, and 2011-13286 are currently pending investigation by the department and/or prosecution by the Denton County District Attorney’s office or the city attorney’s office. You explain the release of the information in these reports would interfere with the ongoing detection, investigation, or prosecution of the criminal offenses. Based on your representation, we conclude that the release of the information at issue 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) (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). Accordingly, we agree section 552.108(a)(1) of the Government Code is applicable to report numbers 2011-00011626, 2011-00013234, and 2011-13286.

Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than a conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A); Open Records Decision No. 434 at 2–3 (1986). You state report number 2011-00011881 relates to an investigation that has concluded and did not result in a conviction or deferred adjudication. Based on this representation and our review, we conclude the department may withhold report number 2011-00011881 under section 552.108(a)(2) of the Government Code.

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). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88. The department must release basic offense and arrest information, including a detailed description of the offense and the names of the officers involved, even if the information does not literally appear on the front page of an offense or arrest report. *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Therefore, with the exception of the basic information, the department may withhold report numbers 2011-00011626, 2011-00013234, 2011-13286, and 2011-00011881 under section 552.108 of the Government Code.<sup>1</sup>

In summary, to the extent report number 2011-00013120 constitutes a record of a juvenile offender engaged in delinquent conduct who is ten years of age or older and under seventeen years of age at the time of the commission of the crime, the department must withhold this report in its entirety under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. With the exception of the basic information, the department may withhold report numbers 2011-00011626, 2011-00013234, and 2011-13286 under section 552.108(a)(1) of the Government Code, and report number 2011-00011881 under section 552.108(a)(2) of the Government Code. The remaining information must be released.

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.

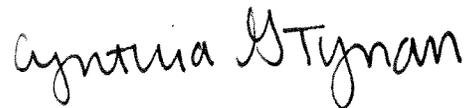
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php),

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure except to note basic information described in *Houston Chronicle* does not include information subject to section 552.130 of the Government Code. *See* Open Records Decision No. 597 (1991).

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 black ink that reads "Cynthia G. Tynan". The signature is written in a cursive, flowing style.

Cynthia G. Tynan  
Assistant Attorney General  
Open Records Division

CGT/em

Ref: ID# 437144

Enc. Submitted documents

c: Requestor  
(w/o enclosures)