



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 1, 2011

Mr. Tyler F. Wallach  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, 3rd Floor  
Fort Worth, Texas 76102

OR2011-17742

Dear Mr. Wallach:

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# 437692 (Fort Worth PIR No. W011556).

The City of Fort Worth (the "city") received a request for case numbers 11-50746, 11-46226, 11-54567, 11-75162, and any records pertaining to a specified address during a specified time period. You state you have released basic information from case number 11-75162. You have redacted social security numbers under section 552.147 of the Government Code.<sup>1</sup> You also state certain motor vehicle record information has been redacted from responsive records pursuant to previous determinations issued to the city under section 552.130 of the

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<sup>1</sup>Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).

Government Code.<sup>2</sup> 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.

Initially, we note you only submitted information pertaining to the specified reports. To the extent the requested information related to the specified address existed on the date the city received the request, we assume it has been released. If not, the city must release any such information at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

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 section encompasses information made confidential by other statutes, such as section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. The relevant language of section 58.007 reads:

(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;

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<sup>2</sup>Open Records Letter No. 2006-14726 (2006) is a previous determination authorizing the city to withhold a Texas driver's license number, a Texas-issued state identification number, a Texas license plate number, and a Texas license year of a motor vehicle under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. Open Records Letter No. 2007-00198 (2007) is a previous determination authorizing the city to withhold class designations, restrictions, expiration dates, license years for Texas-issued driver's licenses of living individuals, and vehicle identification numbers relating to a title or registration issued by an agency of the State of Texas in which a living individual owns an interest under section 552.130, without the necessity of requesting an attorney general decision. However, as of September 1, 2011, section 552.130 allows a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3) without the necessity of seeking a decision from the attorney general. *See* Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, § 22 (to be codified at Gov't Code § 552.130(c)). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See* Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, § 22 (to be codified at Gov't Code § 552.130(d), (e)). Thus, the statutory amendments to section 552.130 of the Government Code supercede Open Records Letter Nos. 2006-14726 and 2007-00198. Therefore, the city may only redact information subject to subsections 552.130(a)(1) and (a)(3) in accordance with section 552.130, not Open Records Letter Nos. 2006-14726 and 2007-00198. The city may continue to redact information subject to section 552.130(a)(2) pursuant to Open Records Letter Nos. 2007-00198 and 2006-14726.

(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). 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 at the time of the reported conduct. *See id.* § 51.02(2). The submitted information pertaining to case number 11-46226 involves two juveniles suspected of assault. Thus, we find case number 11-46226 involves juvenile delinquent conduct. *See id.* § 51.03(a) (defining juvenile “delinquent conduct” for the purposes of section 58.007). It does not appear any of the exceptions in section 58.007 of the Family Code apply. Therefore, we find the submitted information pertaining to case number 11-46226 is confidential under section 58.007(c) of the Family Code, and the city must withhold case number 11-46226 under section 552.101 of the Government Code.<sup>3</sup>

Section 552.101 also encompasses section 261.201 of the Family Code, which provides:

(a) [T]he following information is confidential, is not subject to public release under [the Act] and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

*Id.* § 261.201(a). You contend case numbers 11-50746 and 11-54567 are subject to section 261.201. Upon our review, we find you have failed to demonstrate how these reports pertain to reports made or investigations conducted under chapter 261 of the Family Code. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code); *see also* Penal Code § 22.04(c) (defining “child” for purposes of injury to a child as a person 14 years of age or younger). Thus, the city may not withhold case numbers 11-50746 and 11-54567 on this basis.

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<sup>3</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure for this information.

Section 552.108(a) 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: (1) 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 must reasonably explain how and why 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 case numbers 11-50746 and 11-54567 relate to criminal cases that are “still open” and pending investigation by the city’s police department. You further state, and provide an affidavit from the Tarrant County District Attorney’s Office (the “district attorney”) showing, case number 11-75162 relates to a pending criminal prosecution by the district attorney. Based upon these representations and our review, we conclude that 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). Thus, section 552.108(a)(1) is applicable to the information at issue.

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*. 531 S.W.2d at 186-87. This information includes, but is not limited to, a detailed description of the offense. *See Open Records Decision No. 127* (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the city may withhold case numbers 11-50746, 11-54567, and 11-75162 under section 552.108(a)(1) of the Government Code.<sup>4</sup>

In summary, the city must withhold case number 11-46226 under section 58.007 of the Family Code in conjunction with section 552.101 of the Government Code. With the exception of basic information, the city may withhold case numbers 11-50746, 11-54567, and 11-75162 under section 552.108(a)(1) of the Government Code.

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.

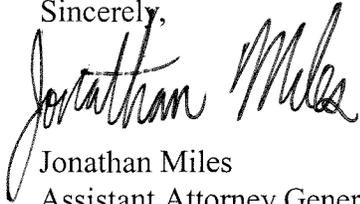
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General’s Open Government Hotline, toll free,

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<sup>4</sup>As our ruling is dispositive, we need not address your remaining argument for this information.

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 "Jonathan Miles". The signature is written in a cursive style with a large initial "J" and "M".

Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/em

Ref: ID# 437692

Enc. Submitted documents

c: Requestor  
(w/o enclosures)