



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 29, 2011

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

OR2011-19120

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# 440871.

The Victoria Police Department (the "department") received a request for all records pertaining to the requestor's son during a specified period. You state the department will release some of the information upon the requestor's payment of copying costs. 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 section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct by a child that occurred on or after September 1, 1997. Fam. Code § 58.007(c). Section 58.007 provides:

(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). *See also id.* § 51.02(2) (defining "child" as a person who is ten years of age or older and younger than seventeen years of age). The submitted reports involve conduct by children that occurred after September 1, 1997, and constitutes delinquent conduct or conduct indicating a need for supervision. *See id.* § 51.03 (defining "delinquent conduct" and "conduct indicating a need for supervision" for purposes of Fam. Code § 58.007). Therefore, the submitted reports are subject to section 58.007. In this instance, however, the requestor is the parent of one of the children named in the reports. Accordingly, section 58.007(e) allows him access to his child's law enforcement records. *Id.* § 58.007(e). Nonetheless, before the department provides this requestor with the information, it must withhold any personally identifiable information about other juvenile suspects, offenders, or witnesses who are not the requestor's child. *See id.* § 58.007(j)(1).

Accordingly, the department must withhold the information we have marked in the report pertaining to incident number 2011-00039732 under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. Further, information subject to any other exception under the Act or other law must be redacted. *See id.* § 58.007(j)(2). As you raise section 552.108 for the report pertaining to case number 2011-041782, we will consider the applicability of that exception.

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). 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 the report pertaining to case number 2011-041782 relates to a pending criminal prosecution. You explain releasing this information would allow the witnesses to coordinate their stories, thus interfering with the detection, investigation, or prosecution of a 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 find section 552.108(a)(1) of the Government Code applicable to this report.

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, the details of the arrest, the physical condition of the arrested person, and a sufficient portion of the narrative to encompass 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 department may withhold the report pertaining to case number 2011-041782 under section 552.108(a)(1) of the Government Code. We note the basic information in this case contains the personal identifying information of juvenile suspects, offenders, victims, or witnesses who are not the requestor’s child. The department must withhold this information under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code.

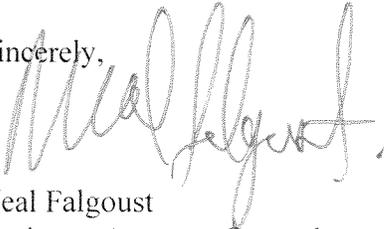
In summary, the department must withhold the information we have marked in the report pertaining to incident number 2011-00039732 under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. With the exception of basic information, the department may withhold the report pertaining to case number 2011-041782 under section 552.108(a)(1) of the Government Code. In releasing basic information from this report, the department must withhold the personal identifying information of any juvenile suspect, offender, victim, or witness who is not the requestor’s

child under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. The remaining information must be released.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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/agn

Ref: ID# 440871

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note the requestor in this case has a special right of access under section 58.007(e) of the Family Code to some of the information being released. If the department receives another request for this same information from a different requestor, it must again seek a ruling from this office.