



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 24, 2012

Ms. Pam Young Kaminsky
Fort Bend Independent School District
16431 Lexington Boulevard
Sugar Land, Texas 77479

OR2012-07978

Dear Ms. Kaminsky:

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# 458486 (ORR 2011-12-348).

The Fort Bend Independent School District (the "district") received a request for a specified incident report and related information. You claim the submitted information is 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."¹ Gov't Code § 552.101. Section 552.101 encompasses information 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 at the time of the reported conduct. *See* Fam. Code § 51.02(2). Section 58.007 provides in pertinent part as follows:

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

(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 [the Act], or other law.

Id. § 58.007(c), (e), (j). We find the submitted information involves a juvenile engaged in delinquent conduct occurring after September 1, 1997; therefore, the submitted information is subject to section 58.007. We note the requestor may be a parent of the juvenile offender listed in the report. If the requestor is not the parent or guardian of the juvenile offender listed in the report, then the submitted information must be withheld in its entirety under section 552.101 in conjunction with section 58.007(c). However, to the extent the requestor is a parent or legal guardian of the juvenile offender, he may inspect or copy any law

enforcement records concerning his child under section 58.007(e). *Id.* § 58.007(e). However, section 58.007(j) provides information subject to any other exception to disclosure under the Act or other law must be redacted. *See id.* § 58.007(j)(2). Accordingly, we will address your argument against disclosure.

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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information relates to a pending prosecution by the Fort Bend County District Attorney’s Office. Based upon your representation and our review, we find section 552.108(a)(1) is applicable to the submitted information. *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).

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*, and includes the description and identity of the complainant. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of the basic information, which must be released, the district may withhold the submitted information under section 552.108(a)(1). Section 58.007(j)(1) of the Family Code provides that any personally identifiable information concerning another juvenile suspect, offender, victim, or witness must be redacted. Fam. Code § 58.007(j)(1). Thus, in releasing the basic information, the district must withhold any personally identifiable information concerning the juvenile victim who is the complainant under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code.

In summary, if the requestor is not a parent or guardian of the juvenile offender, then the district must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. If the requestor is a parent or guardian of the juvenile offender listed in the report, then, with the exception of basic information which must be released, the district may withhold the submitted information under section 552.108(a)(1) of the Government Code. However, in releasing the basic information, the district must redact any personally identifiable information concerning

the complainant under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code.²

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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/ag

Ref: ID# 458486

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²In that event, because the requestor has a special right of access under section 58.007(e) of the Family Code to the information being released, if the district receives another request for this information from a different requestor, the district must again request an opinion from this office.