



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 5, 2012

Ms. P. Armstrong
Assistant City Attorney
City of Dallas
Criminal Law and Police Section
1400 South Lamar
Dallas, Texas 75215

OR2012-08609

Dear Ms. Armstrong:

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# 456363 (ORR# 2012-03564).

The Dallas Police Department (the "department") received a request for a specified offense report. You claim that 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 protected by other statutes, 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). The relevant language of section 58.007 reads 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:

...

(2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law.

Id. § 58.007(c), (e), (j)(2). The submitted offense report involves a fifteen-year-old suspected of assault. Thus, we find the report involves juvenile delinquent conduct. *See id.* § 51.03(a) (defining "delinquent conduct" for purposes of section 58.007). Therefore, the submitted information is within the scope of section 58.007(c). However, the requestor may be a guardian of the juvenile suspect listed in the report and may have a right of access to information otherwise made confidential by section 58.007(c). *See id.* § 58.007(e) (law enforcement records may be inspected by child's guardian). As we are unable to determine whether the requestor is the juvenile suspect's guardian, we must rule conditionally. If the department determines the requestor is not a guardian of the juvenile suspect, the department must withhold the submitted information in its entirety under section 552.101 in of the

Government Code in conjunction with section 58.007(c) of the Family Code. If the department determines the requestor is a guardian of the juvenile suspect, the department may not withhold the submitted information from the requestor on the basis of section 58.007(c) of the Family Code. However, section 58.007(j)(2) provides before a guardian may inspect the information, the department must withhold information that is excepted from required disclosure under the Act or other law. *See id.* § 58.007(j)(2). Accordingly, we will address the applicability of section 552.108 to this information.

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: (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.* § 552.301(e)(1)(A). You state that the submitted information relates to a “pending [criminal] investigation/prosecution.” Based upon your representation and our review, we conclude that release of the submitted information 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 generally applicable to the submitted information.

We note, 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 a detailed description of the offense. *See Open Records Decision No. 127 (1976)* (summarizing types of information made public by *Houston Chronicle*). Thus, with the exception of basic information, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.

In summary, if the requestor is not the juvenile’s guardian, the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. If the requestor is the juvenile’s guardian, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code, except for basic information which 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, 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 "Sean Opperman". The signature is written in a cursive, flowing style.

Sean Opperman
Assistant Attorney General
Open Records Division

SO/eb

Ref: ID# 456363

Enc. Submitted documents

c: Requestor
(w/o enclosures)