



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 9, 2012

Ms. Teresa J. Brown
Senior Open Records Assistant
City of Plano Police Department
P.O. Box 860358
Plano, Texas 75086-0358

OR2012-10547

Dear Ms. Brown:

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# 463088 (tracking nos. MILD053112 and SMIJ060812).

The Plano Police Department (the "department") received two requests for police report number 2012-96700. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

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 protected by other statutes, such as section 58.007 of the Family Code, the relevant language of which 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,

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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.

Fam. Code § 58.007(c), (e), (j). Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. Section 58.007 also allows for the review or copy of juvenile law enforcement records by a child suspect's parent or guardian. *Id.* § 58.007(e). However, section 58.007(j)(1) provides that any identifiable information about a juvenile suspect, victim, or witness who is not the requestor's child must be redacted. *Id.* § 58.007(j)(1). Additionally, section 58.007(j)(2) provides that information subject to any other exception to disclosure under the Act or law must be redacted. *Id.* § 58.007(j)(2).

The submitted documents involve juvenile conduct occurring after September 1, 1997; therefore, the submitted report is subject to section 58.007. The first requestor (tracking number MILD053112) is not the parent of a juvenile suspect in the submitted report. Thus, with regard to the first requestor, it does not appear that any of the exceptions in section 58.007 apply; therefore, the requested information is confidential in its entirety pursuant to section 58.007(c) of the Family Code and must not be released to the first requestor.² The second requestor (tracking number SMIJ060812), however, is the parent of one of the juvenile offenders; therefore, the information pertaining to the second requestor's child may not be withheld from her under section 552.101 of the Government Code on that ground. *See id.* § 58.007(e). Nevertheless, section 58.007(j) provides that information that is excepted from required disclosure under the Act or other law must be redacted. *See id.* § 58.007(j)(2). Thus, we must address the applicability of section 552.108 to the submitted information as it relates to the second requestor.

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 criminal case and release of the information would interfere with the investigation. Based upon your representation and our review, we find that 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*. *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*). We note basic information does not include the identifying information of witnesses. Accordingly, with the exception of the basic information, the department may withhold the submitted information from the second requestor under section 552.108(a)(1) of the Government Code. In releasing basic information, the department must withhold personally identifying information regarding the juvenile arrestees who are not the requestor’s child, including their names, addresses, telephone numbers, and

²Because our ruling regarding the first request (tracking number MILD053112) is dispositive, we do not address your arguments under section 552.108 for the first request.

parents' names, 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 submitted information in its entirety from the first requestor (tracking number MILD053112) under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. With the exception of basic information, the department may withhold the submitted information from the second requestor (tracking number SMLJ060812) under section 552.108(a)(1) of the Government Code. In releasing basic information, the department must withhold personally identifying information regarding the juvenile arrestees who are not the requestor's child, including their names, addresses, telephone numbers, and parents' names, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family 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, 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 463088

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)