



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 23, 2012

Ms. Michelle T. Rangel  
Assistant County Attorney  
Fort Bend County  
301 Jackson Street, Suite 728  
Richmond, Texas 77469

OR2012-11395

Dear Ms. Rangel:

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# 464092.

The Fort Bend County Fire Marshal's Office (the "fire marshal's office") received a request for information pertaining to a specified house fire. 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 exceptions you claim and reviewed the submitted information.<sup>1</sup>

Section 552.101 of the Government Code excepts from public 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 made confidential by other statutes, such as section 58.007 of the Family Code. Section 58.007 provides, in relevant part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise,

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<sup>1</sup>We assume 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 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.

Fam. Code § 58.007(c). Thus, under section 58.007, law enforcement records relating to a juvenile engaged in delinquent conduct or conduct indicating a need for supervision on or after September 1, 1997, are confidential. *See id.* § 51.03(a)-(b) (defining “delinquent conduct” and “conduct indicating a need for supervision”). For purposes of section 58.007(c), a “child” is a person who is ten years of age or older and under seventeen years of age at the time the conduct occurred. *See id.* § 51.02(2). However, section 58.007(c) does not apply to information that relates to a juvenile as a complainant, victim, witness, or other involved party and not as a suspect or offender. We find the submitted information does not involve a juvenile suspect or offender for purposes of section 58.007. Accordingly, the submitted information is not confidential under section 58.007(c) and may not be withheld under section 552.101 on that basis.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. *See Gov't Code* § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A). We note that for purposes of section 552.108, the arson investigation division of a fire department is considered a law enforcement unit. *See Open Records Decision No. 127 at 8 (1976)*. You state the submitted information pertains to a concluded criminal investigation conducted by the fire marshal's office that did not result in a conviction or deferred adjudication. Based on your representations and our review, we conclude that the fire marshals' office has demonstrated that section 552.108(a)(2) is applicable to the submitted information.

We note, however, that section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *Id.* § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd*

*n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). See also Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the fire marshal's office may withhold the submitted information under section 552.108(a)(2) 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, 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,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/som

Ref: ID# 464092

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)