



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 27, 2012

Ms. Cara Leahy White
For City of Haltom
Taylor Olson Adkins Sralla Elam, L.L.P.
6000 Western Place, Suite 200
Fort Worth, Texas 76107

OR2012-11756

Dear Ms. White:

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# 460340.

The City of Haltom (the "city"), which you represent, received a request for (1) all traffic citations issued within a specified period of time, (2) a list of all warrants issued within a specified period of time, (3) the mug shots for every person arrested within a specified period of time, (4) the arrest log for a specified period of time, and (5) a list of any companies or individuals who have requested bulk data related to criminal, traffic, or warrant information. You state you will redact driver's license numbers pursuant to section 552.130 of the Government Code.¹ You further state you will redact social security numbers under section 552.147(b) of the Government Code.² You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We

¹On September 1, 2011, the Texas legislature amended section 552.130 to allow a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

²Section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).

have considered the exceptions you claim and reviewed the submitted representative sample of information.³

Initially, we note you have not submitted information responsive to item five of the request. To the extent the city maintains information responsive to this part of the request that existed on the date the request was received, we assume it has been released. If the city has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

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, which protects juvenile law enforcement records related to delinquent conduct and conduct indicating a need for supervision that occurred on or after September 1, 1997. 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, 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). Section 51.02(2)(A) defines "child" as a person who is ten years of age or older and under seventeen years of age. We note section 58.007 does not make information relating to traffic offenses confidential. *See id.* §§ 51.02(16) (defining traffic

³We 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.

offense), 51.03(a) (delinquent conduct does not include traffic offense), 51.03(b) (conduct indicating need for supervision does not include traffic offense). Although you claim the highlighted information is confidential under section 58.007, we are unable to determine the ages of some of the offenders at issue. Thus, we must rule conditionally. It does not appear any of the exceptions to section 58.007 apply to the information at issue. Thus, to the extent the information you have highlighted, except the traffic offenses we have marked for release, constitute records of juveniles engaged in delinquent conduct who were ten years of age or older and under seventeen years of age at the time of the commission of the crimes, the highlighted information is confidential pursuant to section 58.007(c) of the Family Code and must be withheld from this requestor under section 552.101 of the Government Code. However, to the extent this information does not pertain to suspects who were ten years of age or older and under seventeen years of age at the time of the commission of the crimes, the city may not withhold it under section 552.101 on the basis of section 58.007.

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 indicate the information you have marked under section 552.108(a)(1) relates to pending criminal prosecutions. Based on your representation and our review, we conclude that release of the this 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). Therefore, we conclude the city may withhold the information you have marked under section 552.108(a)(1) of the Government Code.

In summary, to the extent the information you have highlighted, except the traffic offenses we have marked for release, constitute records of juveniles engaged in delinquent conduct who were ten years of age or older and under seventeen years of age at the time of the commission of the crimes, the highlighted information is confidential pursuant to section 58.007(c) of the Family Code and must be withheld under section 552.101 of the Government Code. The city may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The remaining information 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,



Jeffrey W. Giles
Assistant Attorney General
Open Records Division

JWG/dls

Ref: ID# 460340

Enc. Submitted documents

c: Requestor
(w/o enclosures)