



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 7, 2013

Ms. Ellen H. Spalding
Rogers, Morris & Grover, L.L.P.
5718 Westheimer Road, Suite 1200
Houston, Texas 77057

OR2013-13695

Dear Ms. Spalding:

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# 495601.

The Klein Independent School District (the "district"), which you represent, received a request for "information, including but limited to police or incident report[s] pertaining to [a specified] incident." You claim the requested information is excepted from disclosure under sections 552.101, 552.102, 552.108, and 552.135 of the Government Code. We have considered the exceptions 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. Section 58.007 makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. 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:

¹We assume the "representative sample" of information 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 those submitted to this office.

(b) An informer's name or information that would substantially reveal the identity of an informer is excepted from [required public disclosure].

(c) Subsection (b) does not apply:

(1) if the informer is a student or former student, and the student or former student, or the legal guardian, or spouse of the student or former student consents to disclosure of the student's or former student's name; or

(2) if the informer is an employee or former employee who consents to disclosure of the employee's or former employee's name; or

(3) if the informer planned, initiated, or participated in the possible violation.

Gov't Code § 552.135(a)-(c). Because the legislature limited the protection of section 552.135 to the identity of a person who reports a possible violation of "law," a school district that seeks to withhold information under that exception must clearly identify to this office the specific civil, criminal, or regulatory law that is alleged to have been violated. *See id.* § 552.301(e)(1)(A). You state the information you have marked in the narrative identifies an employee who reported a possible violation of law to a district police officer. Based on your representation and our review, we agree the district must withhold the identifying information of the informant, which you have marked, under section 552.135 of the Government Code.

In summary, if the requestor is not the juvenile offender's parent or guardian, 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 the juvenile offender's parent or guardian, we conclude as follows: Except for basic information, the district may withhold the submitted information under section 552.108(a)(1) of the Government Code. In releasing basic information, the district (1) must withhold the information that identifies the juvenile victim, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code and (2) may withhold the identifying information of the informant, which you have marked, under section 552.135 of the Government 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.

²As we make these determinations, we need not address the other exceptions you claim. We note the present requestor has a right of access to information the district would be required to withhold from the general public. Therefore, the district must request another decision if it receives another request for this same information from a different requestor. *See* Gov't Code §§ 552.301(a), .302.

(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). Juvenile law enforcement records relating to delinquent conduct that occurred on or after September 1, 1997, are confidential under section 58.007. *See id.* § 51.03(a), (b) (defining "delinquent conduct" for the purposes of Fam. Code § 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 id.* § 51.02(2).

Upon review, we find the submitted information involves juvenile delinquent conduct that occurred after September 1, 1997. Therefore, the submitted information is confidential under section 58.007(c) of the Family Code.

Because you have redacted the requestor's identifying information from the request, except for the word "mother," we are unable to determine if the requestor is the parent or guardian of the juvenile offender named in the submitted record. Therefore, we must rule conditionally. If the requestor is not the juvenile offender's parent or guardian, then, as it

does not appear any of the exceptions in section 58.007 apply, 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. However, if the requestor is the juvenile offender's parent or guardian, then the requestor has a right to inspect information concerning the juvenile offender under section 58.007(e). *Id.* § 58.007(e). Section 58.007(j)(1) provides, however, that any personally identifiable information concerning other juvenile suspects, offenders, victims, or witnesses must be redacted. *See id.* § 58.007(j)(1). In addition, section 58.007(j)(2) of the Family Code provides that information subject to any other exception to disclosure under the Act or other law must be redacted. *See id.* § 58.007(j)(2). Accordingly, in that instance, we will consider your remaining arguments for the submitted 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] release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108(a)(1) is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You state the release of the submitted information would interfere with a pending criminal investigation being conducted by the district's police department. Based on your representation, we find section 552.108(a)(1) is applicable in this instance. *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 present in active cases), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976).

We note 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). Section 552.108(c) refers to the basic front-page offense and arrest information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Basic information includes an identification and description of the complainant and a detailed description of the offense. The district must release basic information, even if the information does not literally appear on the front page of an offense or arrest report. But in releasing basic information, the district must withhold the information that identifies the juvenile victim, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code.

You seek to withhold the identity of the reporting party from the basic information under section 552.135 of the Government Code, which provides in relevant part the following:

- (a) “Informer” means a student or a former student or an employee or former employee of a school district who has furnished a report of another person's possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to 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# 495601

Enc. Submitted documents

c: Requestor
(w/o enclosures)