ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 4, 2013

Ms. Karon Newby-Cooley
Records Clerk
Central Records Divison
Pflugerville Police Department
P.O. Box 679
Pflugerville, Texas 78691

OR2013-21045

Dear Ms. Newby-Cooley:

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# 512284.

The Pflugerville Police Department (the "department") received a request for information pertaining to a specified incident. You claim the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception 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."[1] Gov't Code § 552.101. This exception encompasses information other statutes make confidential. 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, "child" means a person who is ten years of age or older and under seventeen years of age. *See* Fam. Code § 51.02(2). Section 58.007 of the Family Code provides in 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]The Office of the Attorney General will raise a mandatory exception like section 552.101 on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

> (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.

Fam. Code § 58.007(c), (e), (j)(2). We have reviewed the submitted information and find it involves allegations of juvenile conduct in violation of a penal statute that occurred after September 1, 1997. Thus, this information is generally confidential under section 58.007(c). We note the requestor is a parent of the juvenile offender listed in the report. Therefore, the requestor has a right to inspect juvenile law enforcement records concerning her juvenile child pursuant to section 58.007(e) of the Family Code. *See id.* § 58.007(e). Section 58.007(j)(2) 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, we will address your claim under section 552.108 of the Government Code.

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

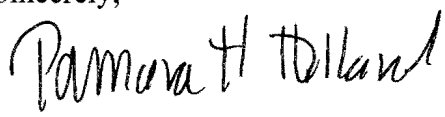
must reasonably explain how and why section 552.108(a)(1) is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state release of the submitted information would interfere with a pending criminal investigation. Based on your representations, we conclude section 552.108(a)(1) is generally 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).

We note, however, section 552.108 of the Government Code 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 information held to be public in *Houston Chronicle*. *See Houston Chronicle*, 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*). The department must release basic information, even if the information does not literally appear on the front page of an offense or arrest report. Thus, with the exception of basic information, the department may withhold the submitted information under section 552.108(a)(1).[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.

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,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/tch

---

[2]We note that because the requestor has a right of access to information being released in this instance, the department must again seek a decision from this office if it receives another request for the same information from another requestor.

Ref: ID# 512284

Enc. Submitted documents

c: Requestor
(w/o enclosures)