



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 16, 2013

Ms. Rebecca Hendricks Brewer  
Abernathy, Roeder, Boyd & Joplin, P.C.  
P.O. Box 1210  
McKinney, Texas 75070-1210

OR2013-21771

Dear Ms. Brewer:

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# 508448 (Frisco #PIR2013-0572).

The City of Frisco (the "city"), which you represent, received a request for information pertaining to a specified incident involving the requestor and another named individual. You state some responsive information has been released to the requestor. You claim the submitted 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.

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. Section 552.101 encompasses information that other statutes make confidential, such as section 58.007 of the Family Code. 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(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* Fam. Code § 51.02(2). Section 58.007 provides, in pertinent part, 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:

- (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.

*Id.* § 58.007(c). The submitted information involves allegations of conduct that occurred after September 1, 1997. However, we are unable to determine the age of the named individual, who is listed as a suspect. Accordingly, we must rule conditionally. It does not appear that any of the exceptions to confidentiality under section 58.007 apply in this instance. Thus, if the named offender was ten years of age or older and under seventeen years of age at the time of the conduct at issue, the submitted information is confidential under section 58.007(c) of the Family Code and must be withheld in its entirety under section 552.101 of the Government Code. However, if the named offender was not ten years of age or older and under seventeen years of age at the time of the conduct at issue, the submitted information is not confidential pursuant to section 58.007(c) and may not be withheld under section 552.101 on that basis. In that event, we will address your remaining argument.

Section 552.108(a) 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(a)(1) must reasonably explain how and why release of the requested information would interfere with the detection, investigation, or prosecution of crime. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You state, and provide a representation from a representative of the city’s fire department (the “fire department”) who also states, the submitted information pertains to a pending criminal investigation by the fire department. We understand the fire department is responsible for the investigation of arson offenses. *See generally* Open Records Decision No. 127 (1976) (providing that an arson investigation unit of a fire department is considered a law enforcement agency for purposes of section 552.108 of the Government Code). Based upon these representations and our review, we find the city has demonstrated that release of

the submitted 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).

We note, 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 186-88; Open Records Decision No. 127 (1976) (summarizing the types of information considered to be basic information). Thus, with the exception of the basic front page offense and arrest information, the city may withhold the submitted information under section 552.108(a)(1).

In summary, if the named offender identified in the information at issue was ten years of age or older and under seventeen years of age at the time of the conduct at issue, the city 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 named offender was not ten years of age or older and under seventeen years of age at the time of the conduct at issue, then, with the exception of basic information, which must be released, the city may withhold the submitted information under section 552.108(a)(1) 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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# 508448

Enc. Submitted documents

c: Requestor  
(w/o enclosures)