



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 29, 2014

Ms. Linda Pemberton
Paralegal
Office of the City Attorney
City of Killeen
P.O. Box 1329
Killeen, Texas 76540

OR2014-07129

Dear Ms. Pemberton:

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# 521213 (Killeen ID#W012664).

The City of Killeen (the "city") received a request for all police reports involving the requestor from January 1, 2007 to February 11, 2014. You state the city has released some information 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 protected by other statutes. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are confidential under section 58.007(c) of the Family Code. This section provides 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.

...

(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 Chapter 552, Government Code, or other law.

Fam. Code § 58.007(c), (e), (j). 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 generally 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 of the reported conduct. *See id.* § 51.02(2). Upon review, we agree that reports 09-004114, 10-000912, 10-002454, and 13-001962 involve children engaged in delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. Accordingly, this information is generally confidential under section 58.007(c). With respect to report number 13-001962, it does not appear any of the exceptions to disclosure apply. Thus, the city must withhold report number 13-001962 in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. However, the requestor is a juvenile suspect in report

numbers 09-004114, 10-000912, and 10-002454. As such, the requestor has a right to inspect or copy information concerning herself under section 58.007(e). *Id.* § 58.007(e). Accordingly, the city may not withhold report numbers 09-004114, 10-000912, and 10-002454 from the requestor under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. *See id.* However, personally identifiable information concerning other juvenile suspects, offenders, victims, or witnesses must be redacted pursuant to section 58.007(j)(1) of the Family Code. *See id.* § 58.007(j)(1). For the purposes of section 58.007(j), we conclude a juvenile victim or witness is a person who is under eighteen years of age. Thus, the city must withhold the information identifying the juvenile victim, which we have marked, under section 552.101 in conjunction with section 58.007(j)(1). Pursuant to section 58.007(j)(2), the city must also withhold any information that is excepted from disclosure under chapter 552 or other law. We note report number 10-000912 contains information subject to section 552.130 of the Government Code.¹ Accordingly, we will address the applicability of that exception to report number 10-000912.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country. Gov't Code § 552.130(a). Accordingly, the city must withhold the information we have marked under section 552.130 of the Government Code.²

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 state report numbers 11-008415, 12-005033, 13-004394, 13-006776, and 13-011860 pertain to pending criminal investigations, and the release of the information within these reports would hinder such investigations. Based on your representations and our review, we conclude section 552.108(a)(1) of the Government Code is applicable to report numbers 11-008415, 12-005033, 13-004394, 13-006776, and 13-011860. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²We note section 552.130 of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). However, 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).

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).

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. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate 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); Open Records Decision No. 434 at 2-3 (1986). You state report numbers 10-015981 and 13-007203 pertain to concluded criminal investigations that did not result in convictions or deferred adjudications. Based on your representation and our review, we agree section 552.108(a)(2) of the Government Code is applicable to report numbers 10-015981 and 13-007203.

However, as you acknowledge, 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; *see also* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information considered to be basic information). Therefore, with the exception of basic information, which you state has been released, city may withhold report numbers 11-008415, 12-005033, 13-004394, 13-006776, and 13-011860 under section 552.108(a)(1) of the Government Code, and report numbers 10-015981, and 13-007203 under section 552.108(a)(2) of the Government Code.

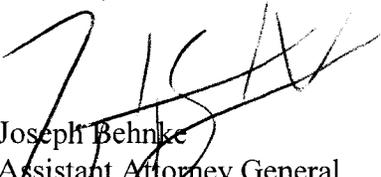
In summary, the city must withhold report number 13-001962 in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. The city must withhold the information we marked in report number 10-000912 under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. The city must withhold the information we marked under section 552.130 of the Government Code. Except for basic information, which you state you have released, the city may withhold report numbers 11-008415, 12-005033, 13-004394, 13-006776, and 13-011860 under section 552.108(a)(1) of the Government Code, and report numbers 10-015981 and 13-007203 under section 552.108(a)(2) of the Government Code. The remaining information must be released.³

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.

³We note this requestor has a right of access to the information being released, which is confidential with respect to the general public. Fam. Code § 58.007(e), Gov't Code § 552.023. Therefore, if the city receives another request for this information from an individual other than this requestor, the city must again seek a ruling from this office.

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,



Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 521213

Enc. Submitted documents

c: Requestor
(w/o enclosures)