



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 14, 2014

Ms. Teresa J. Brown
Senior Open Records Assistant
Plano Police Department
P.O. Box 860358
Plano, Texas 75086-0358

OR2014-12073

Dear Ms. Brown:

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# 534426 (PPD tracking no. HANM060614).

The Plano Police Department (the "department") received a request for information related to a specified incident involving the requestor's child. You state you have released some information to the requestor. You claim portions of the submitted information are 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 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. Section 552.101 encompasses information protected by other statutes, such as section 58.007 of the Family Code. Juvenile law enforcement records relating to delinquent conduct that occurred on or after September 1, 1997 are confidential under section 58.007. Fam. Code § 58.007(c). The relevant language of section 58.007 reads as follows:

¹We 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 that those records contain substantially different types of information than that submitted to this office.

(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.

Id. § 58.007(c), (e), (j). 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). The submitted information involves delinquent conduct by children that occurred after September 1, 1997. *See id.* § 51.03 (defining "delinquent conduct" for purposes of section 58.007 of Family Code). Therefore, the submitted information is confidential under section 58.007(c).

In this instance, the requestor is a parent of one of the juvenile offenders named in the submitted records. Accordingly, section 58.007(e) allows her access to her child's law enforcement records. *Id.* § 58.007(e). However, the department must withhold any personally identifiable information about other juvenile suspects, offenders, or witnesses who are not the requestor's child. *See id.* § 58.007(j)(1). Section 58.007(j)(2) further provides that information subject to any other exception to disclosure under the Act or other law must also be redacted. *See id.* 58.007(j)(2). Accordingly, we will address your arguments for portions of the submitted information.

Section 552.108(a)(1) of the Government Code exempts 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 the submitted information relates to a pending criminal case and release would interfere with the investigation or prosecution of crime. Based upon these representations and our review, we find the department has demonstrated release of the information at issue 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). Accordingly, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code.

You claim section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code for some of the remaining information. As noted above, personally identifiable information concerning any other juvenile suspect, offender, victim, or witness that is not the requestor's child must be redacted pursuant to section 58.007(j)(1). *See Fam. Code* § 58.007(j)(1). Accordingly, the department must withhold the identifying information you have marked under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code.

In summary, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. The department may withhold the information you have marked under

section 552.108(a)(1) of the Government Code. As you raise no further exception to disclosure of the remaining information, it must be released.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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 534426

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note the requestor in this case has a special right of access under section 58.007(e) of the Family Code to the information being released. If the department receives another request for this same information from a different requestor, it must again seek a ruling from this office.