



January 23, 2015

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

OR2015-01362

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# 551251 (In-house tracking #ANSK10214).

The Plano Police Department (the "department") received a request for information pertaining to a specified incident. 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 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. This section encompasses information protected by other statutes, such as section 58.007 of the Family Code, which provides, in pertinent 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) 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.

Fam. Code § 58.007(c), (e), (j). Thus, under section 58.007(c), law enforcement records relating to a juvenile engaged in delinquent conduct on or after September 1, 1997, are confidential. *See id.* § 51.03(a) (defining "delinquent conduct"). 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 when the conduct occurred. *See id.* § 51.02(2). Upon review, we find the submitted information consists of law enforcement records involving juvenile delinquent conduct that occurred after September 1, 1997. Accordingly, this information is subject to section 58.007(c) of the Family Code. We note, and you acknowledge, the requestor is the parent of one of the juveniles involved in the specified incident. Under section 58.007(e), the juvenile's parent may inspect law enforcement records concerning his or her child. *Id.* § 58.007(e). Therefore, the requestor has a right to inspect juvenile law enforcement records concerning her child, and the department may not withhold the submitted information under section 552.101 in conjunction with section 58.007(c). However, any personally identifiable information concerning another juvenile suspect, offender, victim, or witness must be redacted from documents subject to release under section 58.007(e). *Id.* § 58.007(j)(1).

Thus, the department must withhold the personally identifiable information of the juvenile offenders other than the requestor's child, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code.¹ Further, information subject to any other exception to disclosure under the Act or other law must also be redacted from documents subject to release under section 58.007(e). *See id.* § 58.007(j)(2). Accordingly, we will consider your argument 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 claiming section 552.108(a)(1) 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 case. Based on your representation and our review, we find the release of the information you have marked 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). Thus, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code.

In summary, the department must withhold the personally identifiable information of the juvenile offenders other than the requestor's child, which we 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. The remaining information must be released to this requestor.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.

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

²We note the requestor has a right of access to the information being released in this instance. *See* Fam. Code § 58.007(e). Accordingly, if the department receives another request for this information from a different requestor, the department must seek another 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,

A handwritten signature in black ink that reads "Alley Latham". The signature is written in a cursive style with a long, sweeping underline.

Alley Latham
Assistant Attorney General
Open Records Division

AKL/dls

Ref: ID# 551251

Enc. Submitted documents

c: Requestor
(w/o enclosures)