



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 30, 2017

Mr. John Saenz
Crime Records Office
McAllen Police Department
P.O. Box 220
McAllen, Texas 78505

OR2017-14755

Dear Mr. Saenz:

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# 671405.

The McAllen Police Department (the "department") received a request for a specified arrest report. 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 section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. *See* Fam. Code § 58.007(c). Section 58.007 provides, in relevant part, the following:

(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). Upon review, we agree the submitted information involves a juvenile engaged in delinquent conduct occurring after September 1, 1997. Therefore, the submitted information is subject to section 58.007. We note the requestor may be the authorized representative of one of the juvenile offenders listed in the report, who is now an adult. If the requestor is not the authorized representative of the juvenile offender listed in the report, then the submitted information must be withheld in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. However, to the extent the requestor is the authorized representative of the juvenile offender at issue, she may inspect or copy any law enforcement records concerning her client under section 58.007(e). *Id.* § 58.007(e). In that case, pursuant to section 58.007(j)(1), any personally identifiable information concerning other juvenile suspects, offenders, victims, or witnesses must be redacted. *See id.* § 58.007(j)(1). Thus, the department must withhold

the identifying information of the other juvenile offender, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. Furthermore, section 58.007(j)(2) provides 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 remaining argument against disclosure.

Section 552.108(a)(2) of the Government Code exempts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See 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 has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the submitted information relates to a closed criminal case that did not result in conviction or deferred adjudication. Based on your representation and our review, we agree section 552.108(a)(2) is applicable to the information at issue.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, to the extent the requestor is the authorized representative of the juvenile offender at issue, with the exception of basic information, the department may withhold the submitted information under section 552.108(a)(2) of the Government Code.

In summary, if the requestor is not the authorized representative of the juvenile offender, then the department 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. If the requestor is the authorized representative of the juvenile offender listed in the report, then, with the exception of basic information, the department may withhold the submitted information under section 552.108(a)(2) of the Government Code. In releasing the basic information, the department must withhold the identifying information of the other juvenile offender, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family 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](#), 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, appearing to read "Tim Neal".

Tim Neal
Assistant Attorney General
Open Records Division

TN/tdw

Ref: ID# 671405

Enc. Submitted documents

c: Requestor
(w/o enclosures)