



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 23, 2009

Mr. Paul F. Wieneskie
Attorney at Law
204 South Mesquite
Arlington, Texas 76010

OR2009-03734

Dear Mr. Wieneskie:

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# 342199.

The Euless Police Department (the "department"), which you represent, received a request for report number 09-12407.¹ You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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. 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, "child" means a person who is ten years of age or older and under seventeen years of age. *See* Fam. Code § 51.02(2). The relevant language of section 58.007 reads as follows:

¹We note that the requestor agreed to the redaction of any Texas license plate numbers, driver's license numbers, vehicle identification numbers, social security numbers, and personal financial identification numbers. Therefore, the department need not release such information and this ruling does not address its public availability.

(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 Subchapter 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.

Fam. Code § 58.007(c), (e). We have reviewed the submitted report and find it involves allegations of juvenile delinquent conduct that occurred after September 1, 1997. Thus, this information is subject to section 58.007(c). You acknowledge, however, that the requestor is the father of the juvenile listed on the report. Under section 58.007(e), the requestor may inspect law enforcement records concerning his own child. *Id.* § 58.007(e). Thus, the department must release this report to this requestor.² You also ask whether the department was required to submit this request for a ruling since the report can be released in its entirety to this requestor. Section 552.301(a) of the Government Code requires a governmental body that wants to withhold information and considers it to be within one of the exceptions under the Act to ask for a decision from this office. *See* Gov't Code § 552.301(a). Thus, a governmental body need not request a ruling if it determines it is releasing the requested information and does not seek to withhold it under an exception to disclosure.

²We note that because the requestor has a special right of access to this information in this instance, the department must again seek a decision from this office if it receives another request for the same information from another requestor.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,

Paige Savoie

Paige Savoie
Assistant Attorney General
Open Records Division

PS/eeg

Ref: ID# 342199

Enc. Submitted documents

cc: Requestor
(w/o enclosures)