



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 30, 2009

Mr. Floyd M. Akers
City Attorney
Pflugerville Police Department
P.O. Box 679
Pflugerville, Texas 78691-0679

OR2009-10580

Dear Mr. Akers:

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# 350610.

The City of Pflugerville (the "city") received a request for the following information: (1) the makeup and number of Pflugerville Independent School District (the "district") students by ethnicity who were given tickets, arrested, detained, or handled by the district's School Resource Officers (SROs) for the 2008-09 and 2007-2008 school years; (2) the total number of incidents broken down by reasons or offenses handled by district SRO's; (3) the same information broken down by ethnicity; (4) the total number of incidents handled by a named officer; and (5) the total number of incidents and types of incidents handled by district SROs broken down by campus. You state you have released information responsive to items 2, 4, and 5 of the request.¹ You claim that the submitted information in Exhibit C 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 representative sample of information.²

¹You have submitted the information you have released in Exhibit B.

²We assume that 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.

Initially, you inform us that there is currently no means of extracting the specific data requested, "outside of printing the full incident reports." You also indicate that the information relating to students "detained" or "handled" by district SROs is not retrievable on the basis of those terms.

We note the Act does not require a governmental body to take affirmative steps to create or obtain responsive information that is not in its possession, so long as no other individual or entity holds such information on behalf of the governmental body that received the request for information. *See* Gov't Code § 552.002(a); Open Records Decision Nos. 534 at 2-3 (1989), 518 at 3 (1989). However, a governmental body must make a good-faith effort to relate a request to any responsive information that is within its possession or control. *See* Open Records Decision No. 561 at 8-9 (1990). Moreover, a governmental body may not refuse to comply with a request on the ground of administrative inconvenience. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 687 (Tex. 1976) (cost or difficulty in complying with predecessor of Act does not determine availability of information); Open Records Decision No. 497 (1988). In this case, as you have submitted responsive offense reports for our review and raised exceptions to disclosure for these documents, we consider the city to have made a good faith effort to identify information that is responsive to the request, and we will address the applicability of your claimed exceptions to the submitted information.

Section 552.101 of the Government Code excepts from public 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, including section 58.007 of the Family Code. The relevant language of section 58.007 provides:

(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.

Fam. Code § 58.007(c). Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. *See* Act of

June 2, 1997, 75th Leg., R.S., ch. 1086, §§ 20, 55 (a), 1997 Tex. Gen. Laws 4179, 4187, 4199; Open Records Decision No. 644 (1996). 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* Fam. Code § 51.02(2).

Upon review, we agree that the submitted information in Exhibit C involves allegations of juvenile conduct that occurred on or after September 1, 1997. *See id.* § 51.03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision"). As such, this information constitutes law enforcement records that are confidential pursuant to section 58.007(c). Accordingly, the city must withhold this information in its entirety under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.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.

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,



Pamela Wissemann
Assistant Attorney General
Open Records Division

PFW/dls

Ref: ID# 350610

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³As our ruling is dispositive, we do not address your other argument against disclosure.