



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 6, 2009

Chief Scott Rubin
Fair Oaks Ranch Police Department
7286 Dietz Elkhorn
Fair Oaks Ranch, Texas 78015

OR2009-15869

Dear Chief Rubin:

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# 360818.

The Fair Oaks Ranch Police Department (the "department") received a request for a report and statements involving five named individuals. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

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 exception encompasses information that other statutes make confidential. You raise section 552.101 in conjunction with section 58.007 of the Family Code, which provides in 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 Chapter 552, Government Code, or other law.

Fam. Code § 58.007(c), (e), (j); *see id.* § 51.03(a)-(b) (defining "delinquent conduct" and "conduct indicating need for supervision" for purposes of Fam. Code tit. 3). Section 58.007(c) is applicable to records of juvenile conduct that occurred on or after September 1, 1997. *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). Section 58.007(c) is not applicable to information that relates to a juvenile as a complainant, victim, witness, or other involved party and not as a suspect or offender.

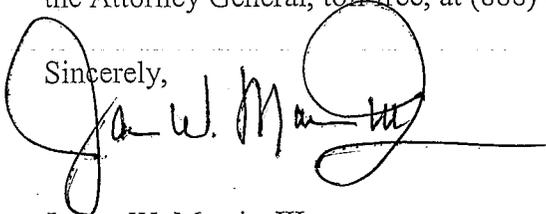
We find that the submitted information involves a juvenile suspect and is therefore confidential under section 58.007(c) of the Family Code. You inform us that the requestor is a representative of the juvenile suspect's parents' insurance company. You do not indicate, however, whether the parents have authorized the requestor to inspect juvenile law enforcement records concerning their child. *See id.* § 58.007(e). Accordingly, we will rule conditionally. If the requestor is an authorized representative of the parents of the juvenile suspect, then the requestor has a right to inspect law enforcement records concerning their

child pursuant to section 58.007(e). In that event, however, any personally identifiable information concerning other juvenile suspects, offenders, victims, or witnesses must be redacted. *See id.* § 58.007(j)(1). For the purposes of section 58.007(j), a juvenile suspect or offender is a child as defined by section 51.02 of the Family Code. *See id.* § 51.02(2) (“child” means person who is ten years of age or older and under seventeen years of age). A juvenile victim or witness, for the purposes of section 58.007(j), is a person who is under eighteen years of age. We have marked the submitted information that identifies a juvenile victim and juvenile witnesses. If the requestor is the authorized representative of the juvenile suspect’s parents, then the department must withhold the marked information under section 58.007(j)(1) and release the rest of the submitted information pursuant to section 58.007(e). If the requestor is not the parents’ authorized representative, then the department must withhold all of the submitted information under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. As we are able to make these determinations, we need not address your claim under section 552.130 of the Government 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.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, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke at the end.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/cc

Ref: ID# 360818

Enc: Submitted documents

c: Requestor
(w/o enclosures)