



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 12, 2009

Ms. Linda Hight
Records Coordinator
City of Cleburne
P. O. Box 677
Cleburne, Texas 76033-0677

OR2009-16050

Dear Ms. Hight:

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# 361442.

The City of Cleburne (the "city") received a request for information related to a specified incident. 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 information protected by other statutes, such as section 58.007 of the Family Code. Section 58.007 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 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.

...

(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). Section 58.007 makes confidential juvenile law enforcement records relating to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. The submitted report involves juvenile delinquent conduct that occurred after September 1, 1997. *See id.* § 51.03(a) (defining "delinquent conduct" for purposes of Fam. Code § 58.007). We note, however, the requestor may be the parent of the juvenile suspect listed in the report. If the requestor is not the parent of the juvenile suspect listed in the report, the submitted information must be withheld in its entirety under section 552.101 in conjunction with section 58.007 of the Family Code. If the requestor is the juvenile suspect's parent, the city may not withhold the submitted information from her under section 58.007(c). *Id.* § 58.007(e). However, pursuant to section 58.007(j) a governmental body may raise other exceptions to disclosure. *See id.* § 58.007(j)(2). You assert the names of the other suspects listed in the report are excepted from disclosure under section 552.108(a)(2) of the Government Code. Therefore, we will address the applicability of section 552.108(a)(2) to that information.

Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code

§ 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state the submitted report pertains to a case in which no charges were filed by the Cleburne Police Department. Accordingly, the city may withhold the names of the other suspects listed in the report under section 552.108(a)(2) of the Government Code.

In summary, if the requestor is not the parent of the juvenile suspect, the city must withhold the submitted report in its entirety under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. If the requestor is the parent of the juvenile suspect, the city may withhold the information it has marked in the report under section 552.108(a)(2) of the Government Code, but must release the remaining information to the 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, toll free, at (888) 672-6787.

Sincerely,



Jessica Eales
Assistant Attorney General
Open Records Division

JCE/eeg

Ref: ID# 361442

Enc. Submitted documents

c: Requestor
(w/o enclosures)