



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

January 12, 2010

Mr. Charles H. Weir
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

OR2010-00597

Dear Mr. Weir:

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# 367024 (COSA File No. 2009-4558).

The San Antonio Police Department (the "department") received a request for a copy of department report #90742708. You claim that 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. This section encompasses information protected by other statutes, such as 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. The relevant language of section 58.007 reads:

(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). For the purposes of section 58.007, "child" means a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). We note, however, section 58.007(c) is not applicable to information that relates to a juvenile as a complainant, victim, witness, or other involved party; it is only applicable to juveniles listed as suspects, offenders, or defendants. *See id.* § 58.007(c). The submitted report involves a juvenile engaged in conduct in need of supervision. *See id.* § 51.03(b) (defining "conduct indicating a need for supervision" to include "the voluntary absence of a child from the child's home without the consent of the child's parent or guardian for a substantial length of time or without intent to return"). We have reviewed the submitted information and find it pertains to allegations of juvenile delinquent conduct that occurred after September 1, 1997. Thus, the submitted information is confidential under section 58.007(c) of the Family Code.

We note that the requestor is a representative of the United States Air Force Office of Special Investigations ("Office of Special Investigations"). Section 58.007(e) gives a "criminal justice agency as . . . defined by Section 411.082, Government Code" a right of access to juvenile law enforcement records. Section 411.082 of the Government Code defines a "criminal justice agency" as including "a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and that allocates a substantial portion of its annual budget to the administration of criminal justice." Gov't Code § 411.082(3)(A). If the department determines the Office of Special Investigations is a criminal justice agency as defined by section 411.082, then the requestor has a right of access to the submitted report under section 58.007(e). Although you raise section 552.108 of the Government Code for the report, this office has found that a statutory right of access overcomes general exceptions to disclosure under the Act. *See Open Records Decision No. 451 (1986)* (specific statutory right of access provisions overcome general exceptions to disclosure under Act). However, if the department determines that the requestor is not a criminal justice agency, 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.¹

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_or1.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,



Andrea L. Caldwell
Assistant Attorney General
Open Records Division

ALC/cc

Ref: ID# 367024

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive in this instance, we need not address your remaining argument against disclosure.