



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

April 1, 2010

Mr. Kevin B. Laughlin
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Lincoln Plaza
500 North Akard Street
Dallas, Texas 75201

OR2010-04633

Dear Mr. Laughlin:

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# 374441.

The Farmer's Branch Fire Department (the "department"), which you represent, received a request for the final fire report pertaining to a March 29, 2009 fire at a specified address. You claim the submitted investigation report 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 exception encompasses information protected by other statutes, such as 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

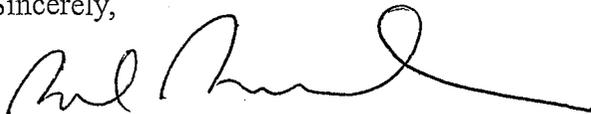
(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

Fam. Code § 58.007(c). Section 58.007(c) is applicable to records of juvenile delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. The submitted report involves a juvenile who is (1) identified in the report as a suspect of delinquent conduct and (2) cited for conduct indicating a need for supervision. *See id.* § 51.03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of Fam. Code § 58.007). Additionally, you represent the submitted report pertains to a criminal investigation of the March 29, 2009 fire as an act of arson. This office has held the arson investigation unit of a fire department is a law enforcement entity; thus, we consider the submitted investigation report to be a law enforcement record for purposes of section 58.007. Accordingly, we conclude the submitted report is a law enforcement record involving juvenile delinquent conduct and juvenile conduct indicating a need for supervision that occurred after September 1, 1997. You do not inform us, and it does not appear, that any of the exceptions in section 58.007 apply to the information in this report; therefore, the submitted investigation report is confidential in its entirety under section 58.007(c) of the Family Code and must be withheld under section 552.101 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,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/cc

Ref: ID# 374441

Enc. Submitted documents

cc: Requestor
(w/o enclosures)