



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 9, 2010

Ms. Linda M. Champion
Assistant City Attorney
City of Victoria
P.O. Box 1758
Victoria, Texas 77902-1758

OR2010-10156

Dear Ms. Champion:

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# 386133 (City of Victoria ID# 2010-147).

The City of Victoria (the "city") received a request for a list of contacts between the Victoria Police Department and a named individual during a specified time period, including juvenile records. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that a portion of the submitted information, which we have marked, is not responsive to the present request because it does not fall within the time period specified in the request. This ruling does not address the public availability of any information that is not responsive to the request, and the city need not release nonresponsive 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 that is protected by other statutes, such as section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are confidential under section 58.007. Section 58.007 provides in relevant 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). For purposes of section 58.007, a "child" is defined as a person ten years of age or older and under seventeen years of age. *Id.* § 51.02(2)(A). Upon review, we determine that a portion of the submitted information involves a juvenile accused of delinquent conduct or conduct indicating a need for supervision, so as to fall within the scope of section 58.007(c). *See id.* § 51.03 (defining "delinquent conduct" and "conduct indicating a need for supervision" for purposes of section 58.007). However, the remaining information relates to the individual concerned while he was an adult. That information is not subject to section 58.007(c) and may not be withheld under section 552.101 of the

Government Code on that basis. Furthermore, the requestor explains that he is the legal guardian of the juvenile concerned in the information at issue. Under section 58.007(e), the requestor may inspect or copy law enforcement records concerning his ward. *Id.* § 58.007(e). However, section 58.007(j)(2) of the Family Code provides that information subject to any other exception to disclosure under the Act or other law must be redacted. *See id.* § 58.007(j)(2). Therefore, we will consider whether the submitted information is excepted from disclosure under the Act or other law.

We note you have submitted a court order of restricted access that pertains to a portion of the submitted information. The order was entered in accordance with section 58.203 of the Family Code, which states the Texas Department of Public Safety (the "department") shall certify that juvenile law enforcement records are subject to automatic restriction under certain circumstances. *Id.* § 58.203. Section 58.204(b) provides:

(b) On certification of records in a case under Section 58.203, the department may permit access to the information in the juvenile justice information system relating to the case of an individual only:

(1) by a criminal justice agency for a criminal justice purpose, as those terms are defined by Section 411.082, Government Code; or

(2) for research purposes, by the Texas Juvenile Probation Commission, the Texas Youth Commission, or the Criminal Justice Policy Council.

Id. § 58.204(b). Furthermore, section 58.207 of the Family Code provides in relevant part:

(a) On certification of records in a case under Section 58.203, the juvenile court shall order:

(1) that the following records relating to the case may be accessed only as provided by Section 58.204(b):

...

(E) records maintained by a law enforcement agency[.]

...

(b) On receipt of an order under Subsection (a)(1), the agency maintaining the records:

(1) may allow access only as provided by Section 58.204(b); and

(2) shall respond to a request for information about the records by stating that the records do not exist.

Id. § 58.207(a)(1)(E), (b). The requestor in this instance is not one of the entities listed in section 58.204(b) to which access is allowed. Therefore, in accordance with the submitted order of restricted access and section 58.207(b), we find that the city must respond to this request for information by stating that a portion of the requested records do not exist.

As previously noted, you have submitted responsive information that involves the named individual as an adult. As you raise no further exceptions to disclosure of that information, it must be released to the requestor.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_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,



Christopher D. Sterner
Assistant Attorney General
Open Records Division

CDSA/eeg

¹We note that the information at issue is confidential with regard to the general public, but to which the requestor has a right of access under section 552.023 of the Government Code. Section 552.023(a) provides that "[a] person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests." Gov't Code § 552.023(a). Should the city receive another request for this information from someone other than the requestor, the city should again seek a decision from this office.

Ref: ID# 386133

Enc. Submitted documents

c: Requestor
(w/o enclosures)