



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 20, 2010

Mr. Paul F. Wieneskie
Attorney at Law
For the City of Euless
204 South Mesquite
Arlington, Texas 76010

OR2010-15855

Dear Mr. Wieneskie:

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# 399243.

The Euless Police Department (the "department"), which you represent, received a request for all the reports and video or audio associated with a specified incident and all public information contained in the internal affairs file of a specified officer. You claim 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.

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 made confidential by other statutes. The relevant language of section 58.007(c) of the Family Code reads as follows:

(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); *see id.* § 51.03(a)–(b) (defining “delinquent conduct” and “conduct indicating need for supervision” for purposes of title 3 of Family Code). Section 58.007(c) is applicable to records of juvenile conduct that occurred on or after September 1, 1997. The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See id.* § 51.02(2) (defining “child” for purposes of title 3 of Family Code). Upon review, we agree the submitted information in exhibit B, including the 911 and radio calls and the video, and the police reports in exhibit C consist of law enforcement records involving a juvenile suspect. The department must therefore withhold this information under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. However, the remaining submitted information in exhibit C consists of an internal affairs investigation. The internal affairs investigation records do not consist of juvenile law enforcement records for purposes of section 58.007. Therefore, none of the remaining submitted information in exhibit C is confidential under section 58.007(c) of the Family Code, and the department may not withhold it under section 552.101 of the Government Code on that basis.

Section 552.101 also encompasses the common-law right of privacy. Common-law privacy protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). This office has determined common-law privacy generally protects the identities of juvenile offenders, *see Open Records Decision No. 384* (1983); *cf.* Fam. Code § 58.007(c). Upon review, we determine the identifying information of the juvenile suspect and the three audio recordings of the juvenile suspect’s parents in the remaining submitted information in exhibit C, which we have marked, are highly intimate or embarrassing and not of legitimate public interest. Therefore, the department must withhold the information we have marked in the remaining submitted information in exhibit C under section 552.101 in conjunction with common-law privacy.

In summary, the department must withhold the submitted information in exhibit B, including the 911 and radio calls and video, and the police reports in exhibit C under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. The department must withhold the information identifying the juvenile offender and the three audio recordings of the juvenile suspect’s parents we have marked in the remaining submitted information in exhibit C under section 552.101 of the Government Code in

conjunction with common-law privacy. The department must release the remainder of the information.

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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/eb

Ref: ID# 399243

Enc. Submitted documents

c: Requestor
(w/o enclosures)