



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 29, 2010

Mr. Carl L. Dorrough  
Criminal District Attorney  
Gregg County  
101 East Methvin, Suite 333  
Longview, Texas 75601

OR2010-17779

Dear Mr. Dorrough:

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# 401915.

The Gregg County Criminal District Attorney's Office (the "district attorney") received a request for any and all documents, including but not limited to court records and files, photographs, investigation, arrest and police records and any other documentation relating to a specified incident involving a named individual. You indicate you have released some information to the requestor. You claim the submitted information is not subject to the Act. In the alternative, you claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered your arguments and reviewed the submitted information.

First, we address your argument the submitted information is not subject to the Act. The Act applies to information that is "collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business. . .by a governmental body." Gov't Code § 552.002(a)(1). However, a "governmental body" under the Act "does not include the judiciary." *Id.* § 552.003(1)(B). Information that is "collected, assembled, or maintained by or for the judiciary" is not subject to the Act but is instead "governed by rules adopted by the Supreme Court of Texas or by other applicable laws and rules." *Id.* § 552.0035(a); *cf.* Open Records Decision No. 131 (1976) (applying statutory predecessor to judiciary exclusion under section 552.003(1)(B) prior to enactment of section 552.0035). You state

the records making up the submitted information relate to an investigation of the specified incident. Although the district attorney asserts the records are held by the Gregg County Juvenile Probation Department, the submitted information shows the district attorney is also maintaining the records. Therefore, because the district attorney also maintains this information as a part of its own investigation, you have not demonstrated the district attorney holds the information on behalf of the judiciary. Therefore, we conclude the information is subject to the Act and must be released unless it falls within an exception to public disclosure. We now turn to your remaining arguments against disclosure of 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 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:

(b) Except as provided by Article 15.27, Code of Criminal Procedure, the records and files of a juvenile court, a clerk of court, a juvenile probation department, or a prosecuting attorney relating to a child who is a party to a proceeding under [Title 3] are open to inspection only by:

- (1) the judge, probation officers, and professional staff or consultants of the juvenile court;
- (2) a juvenile justice agency as that term is defined by Section 58.101;
- (3) an attorney for a party to the proceeding;
- (4) a public or private agency or institution providing supervision of the child by arrangement of the juvenile court, or having custody of the child under juvenile court order; or
- (5) with leave of the juvenile court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

Fam. Code § 58.007(b). The submitted information consists of records maintained by the prosecuting attorney, the district attorney, concerning a juvenile offender. The submitted information relates to a juvenile who is a party to a proceeding under the Juvenile Justice Code, Title 3 of the Family Code. You state the requestor is not one of the persons or entities authorized to access this information under section 58.007(b). Based on your representations and our review of the submitted information, we agree the submitted information is confidential under section 58.007(b) of the Family Code. Accordingly, the district attorney

must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 58.007(b) of the Family Code. As our ruling is dispositive, we need not address your remaining arguments against disclosure of this 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](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/eeg

Ref: ID# 401915

Enc. Submitted documents

c: Requestor  
(w/o enclosures)