



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 3, 2011

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

OR2011-00005

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# 404896.

The Euless Police Department (the "department"), which you represent, received a request for information relating to a specified incident. You claim some of the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.

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 that other statutes make confidential. Section 58.007 of the Family Code 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.

...

(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); *see id.* § 51.03(a)-(b) (defining "delinquent conduct" and "conduct indicating need for supervision" for purposes of Fam. Code tit. 3). Section 58.007(c) is applicable to records of juvenile conduct that occurred on or after September 1, 1997. *See* Act of June 2, 1997, 75th Leg., R.S., ch. 1086, §§ 20, 55(a), 1997 Tex. Gen. Laws 4179, 4187, 4199; Open Records Decision No. 644 (1996). Section 58.007(c) is not applicable to information that relates to a juvenile as a complainant, victim, witness, or other involved party and not as a suspect or offender.

We find that the submitted information involves juvenile offenders and is therefore generally confidential under section 58.007(c) of the Family Code. In this instance, however, the requestor is a parent of one of the juvenile offenders involved. As such, the requestor has a right to inspect law enforcement records concerning his child pursuant to section 58.007(e). *See id.* § 58.007(e). Section 58.007(j) provides, however, that any personally identifiable information concerning other juvenile suspects, offenders, victims, or witnesses must be redacted. *See id.* § 58.007(j)(1). For purposes of section 58.007(j), a juvenile suspect or

offender is a child as defined by section 51.02 of the Family Code. *See id.* § 51.02(2) (“child” means a person who is ten years of age or older and under seventeen years of age). However, for purposes of section 58.007(j), we conclude that a juvenile victim or witness is a person who is under eighteen years of age. We have marked the submitted information that identifies the other juvenile offender and a juvenile witness. The department must withhold the marked information under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code.

Section 58.007(j) further provides that information subject to any other exception to disclosure under the Act or other law must also be redacted. *See id.* § 58.007(j)(2). We note the submitted information includes information that is excepted from disclosure under section 552.102(a) of the Government Code.¹ Section 552.102(a) excepts from disclosure “information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” Gov’t Code § 552.102(a). The Texas Supreme Court recently held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex. & The Dallas Morning News, Ltd.*, No. 08-0172, 2010 WL 4910163 (Tex. Dec. 3, 2010) (Dec. 20, 2010, motions for reconsideration and rehearing pending). Having carefully reviewed the information at issue, we have marked the information that must be withheld under section 552.102(a) of the Government Code.

In summary: (1) the department must withhold the marked information that identifies the other juvenile offender and a juvenile witness under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code; and (2) the department must withhold the information we have marked under section 552.102(a) of the Government Code. The department must release the rest of the submitted information to this requestor pursuant to section 58.007(e) of the Family Code.²

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.

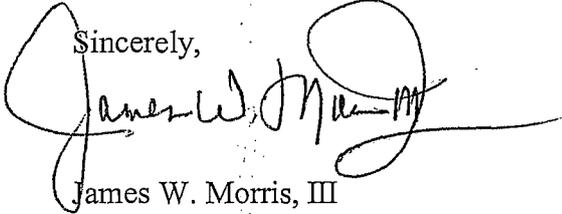
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php.

¹The Office of the Attorney General will raise a mandatory exception like section 552.102 on behalf of a governmental body, but ordinarily will not raise other exceptions.

²We note the requestor has a special right of access to the information to be released in this instance. Because such information is confidential with respect to the general public, the department must again seek a ruling from this office if it receives another request for this information from a different requestor.

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,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is fluid and cursive, with a large initial "J" and "M".

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/vb

Ref: ID# 404896

Enc: Submitted documents

c: Requestor
(w/o enclosures)