



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 16, 2011

Mr. C. Patrick Phillips  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, 3<sup>rd</sup> Floor  
Fort Worth, Texas 76102

OR2011-02392

Dear Mr. Phillips:

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# 409282 (Fort Worth PIR No. W005304).

The Fort Worth Police Department (the "department") received a request for all records pertaining to four named individuals. You state the department has no information pertaining to one of the named individuals.<sup>1</sup> You also state some information has been released to the requestor. 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 public 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 protected by other statutes, such as section 58.007 of the Family Code. Section 58.007 provides for the confidentiality of juvenile law enforcement records related to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. *See Fam.*

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<sup>1</sup>We note the Act does not require a governmental body to release information that did not exist when it received a request or create information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

Code § 51.03 (defining “delinquent conduct” and “conduct indicating a need for supervision”). The relevant part of section 58.007(c) 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.

*Id.* § 58.007(c). For purposes of section 58.007(c), “child” means a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). Upon review, we agree the submitted information constitutes law enforcement records of juveniles who engaged in delinquent conduct after September 1, 1997. Thus, the submitted information is confidential pursuant to section 58.007(c) and the department must withhold it under section 552.101 on that basis.<sup>2</sup>

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

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<sup>2</sup>The requestor, in this instance, states he was appointed by the Tarrant County District Courts to perform a social study of the family of the individuals named in the request. We note a domestic relations office created under chapter 203 of the Family Code is entitled to obtain from the Department of Public Safety criminal history record information that relates to a person who is a party to a proceeding in which the domestic relations office is providing services permitted under chapter 203. *See Gov’t Code* § 411.1285(a); *Fam. Code* § 201.001(2) (defining “domestic relations office”). As the information subject to section 58.007(c) of the Family Code does not contain any criminal history record information that relates to any person who is the subject of the social study, we need not determine the applicability of section 411.1285 to this request.

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,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/eeg

Ref: ID# 409282

Enc. Submitted documents

c: Requestor  
(w/o enclosures)