



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 1, 2011

Lieutenant William Ryan  
Pharr Police Department  
1900 South Cage  
Pharr, Texas 78577-6751

OR2011-04489

Dear Lieutenant Ryan:

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# 413382.

The Pharr Police Department (the "department") received a request for two specified reports. You claim 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 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 exception encompasses information other statutes make confidential. You contend the submitted information is confidential under section 58.007 of the Family Code, which 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.

*Id.* § 58.007(c), (e). 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, 75<sup>th</sup> Leg., R.S., ch. 1086, §§ 20, 55(a), 1997 Tex. Gen. Laws 4179, 4187, 4199; Open Records Decision No. 644 (1996). The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See* Fam. Code § 51.02(2) (defining "child" for purposes of title 3 of Family Code).

Report number 09-36707 involves a juvenile runaway. Thus, we find that this information involves a juvenile engaged in conduct indicating a need for supervision. *See id.* § 51.03(b) (defining "conduct indicating a need for supervision" to include "the voluntary absence of a child from the child's home without the consent of the child's parent or guardian for a substantial length of time or without intent to return"). Accordingly, report number 09-36707 is subject to section 58.007 of the Family Code. In this instance, we note that the requestor may be a parent or legal guardian of the juvenile at issue. However, if the requestor is not a parent or legal guardian of the juvenile listed in report number 09-36707, then report number 09-36707 must be withheld in its entirety under section 552.101 in conjunction with section 58.007 of the Family Code. If the requestor is a parent or legal guardian of the juvenile, he may inspect or copy any law enforcement records concerning his own child under section 58.007(e), and the department must release report number 09-36707 to him. *See id.* § 58.007(e).

Next, we note the individual listed as a runaway in report number 05-47518 was nine years of age at the time of the incident. Because the legislature has chosen to protect only the law enforcement records of a child who is between the ages of ten and sixteen at the time of the reported conduct, we find report number 05-47518 is not confidential under section 58.007(c) of the Family Code. *See* Open Records Decision No. 478 at 2 (1987) (language of confidentiality statute controls scope of protection). We therefore conclude

report number 05-47518 is not subject to section 58.007 of the Family Code and may not be withheld on that basis under section 552.101 of the Government Code. As you claim no other exception to disclosure, report number 05-47518 must be released.

In summary, if the requestor is not a parent or legal guardian of the juvenile listed in report number 09-36707, then report number 09-36707 must be withheld in its entirety under section 552.101 in conjunction with section 58.007 of the Family Code. If the requestor is a parent or legal guardian of the juvenile, he may inspect or copy any law enforcement records concerning his own child under section 58.007(e), and the department must release report number 09-36707 to him.<sup>1</sup> In either case, report number 05-47518 must be released.

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,



Tamara Wilcox  
Assistant Attorney General  
Open Records Division.

TW/tf

Ref: ID# 413382

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>Because the requestor may have a right of access to certain information that otherwise would be excepted from release under the Act, the department must again seek a decision from this office if it receives a request for this information from a different requestor.