



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 20, 2011

Ms. Jessica Sangsvang
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2011-07166

Dear Ms. Sangsvang:

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# 418185 (Fort Worth PIR No. W007183).

The City of Fort Worth (the "city") received a request for a specified police report. You claim that 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 section encompasses information protected by other statutes such as section 58.007 of the Family Code, which provides in pertinent part 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.

(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). Juvenile law enforcement records relating to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997 are confidential under section 58.007. *See id.* § 51.03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision"). 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). The information at issue involves two children engaged in delinquent conduct that occurred after September 1, 1997. As such, we agree that this information constitutes a juvenile law enforcement record that is generally confidential pursuant to section 58.007(c). In this instance, however, the requestor may be a parent or guardian of one of the juvenile offenders named in the report. As we are unable to make this determination, we must rule conditionally. If the requestor is not a parent or guardian of one of the juveniles listed as an offender in the submitted information, then the city must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. If the requestor is a parent or guardian of one of the offenders, then section 58.007(e) allows her access to her child's law enforcement records. *Id.* § 58.007(e). Nonetheless, before the requestor is permitted to receive this report, the city must redact any personally identifying information about the other juvenile offender and witnesses, which we have marked. *See id.* § 58.007(j)(1).

Section 552.147 of the Government Code excepts from disclosure the social security number of a living person. Gov't Code § 552.147. You state the city has redacted a social security number from the submitted information pursuant to section 552.147(b), which authorizes a governmental body to redact a living person's social security number from public release

without the necessity of requesting a decision from this office under the Act. *Id.* § 552.147(b). However, in this instance, the requestor may have a special right of access to the social security number at issue. As such, if the requestor is an authorized representative of the child whose social security number is at issue and therefore has access to the submitted report under section 58.007(e) of the Family Code, the city may not withhold the social security number you have marked from this requestor under section 552.147 of the Government Code. *See* Gov't Code § 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests).

In summary, if the requestor is not a parent or guardian of one of the juvenile offenders, then the city must withhold the submitted report in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. If the requestor is a parent or guardian of one of the offenders, then the city must withhold the information we have marked that identifies the other juvenile offender and witnesses under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. In this instance, the remaining information must be released.¹

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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/em

¹We note the requestor has a right of access to information being released under section 58.007(e) of the Family Code and section 552.023 of the Government Code. Therefore, if the city receives another request for this same information from a different requestor, the city must again seek a ruling from this office.

Ref: ID# 418185

Enc. Submitted documents

c: Requestor
(w/o enclosures)