



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 4, 2012

Mr. Charles H. Weir
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

OR2012-00216

Dear Mr. Weir:

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# 442179 (COSA File No. W003881).

The San Antonio Police Department (the "department") received a request for the police report pertaining to a specified case number. 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 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(c) of the Family Code, which provides 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.

Fam. Code § 58.007(c). Section 58.007(c) is applicable to records of juvenile delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. *See id.* § 51.03(a), (b)(3) (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of section 58.007). For purposes of section 58.007, “child” means a person who is ten years of age or older and under seventeen years of age at the time of the reported conduct. *See id.* § 51.02(2). Upon review, we agree the submitted information involves juvenile delinquent conduct that occurred after September 1, 1997. As such, this information constitutes a juvenile law enforcement record that is confidential pursuant to section 58.007(c).

However, section 58.007(e) of the Family Code provides that “[l]aw 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 [of the Family Code], [or] a criminal justice agency as that term is defined by Section 411.082, Government Code[.]” *Id.* § 58.007(e). Section 58.101 of the Family Code provides that “‘juvenile justice agency’ means an agency that has custody or control over juvenile offenders.” *Id.* § 58.101(5). Section 411.082 of the Government Code defines a “criminal justice agency” as including “a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and that allocates a substantial portion of its annual budget to the administration of criminal justice” and “a nongovernmental railroad or campus police department that has obtained an originating agency identifier from the Federal Bureau of Investigation.” Gov’t Code § 411.082(3)(A)-(B).

In this instance, the requestor identifies herself as an Assistant State’s Attorney at the DuPage County State’s Attorney’s Office in Illinois. You do not indicate, and we are not otherwise able to determine, whether the requestor seeks access to the submitted information on behalf of a juvenile justice agency or a criminal justice agency for the purposes of section 58.007(e) of the Family Code. Nevertheless, if the department is able to determine that this particular requestor represents a juvenile justice agency or a criminal justice agency, as provided by section 58.007(e) of the Family Code, then the requestor has a right of access to the submitted information under section 58.007(e) of the Family Code. Otherwise, the requestor has no right of access to this information, and it must be withheld from the requestor under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. We note that a release of information made

confidential by section 58.007(c) under the authority of section 58.007(e) would not constitute a disclosure of confidential information to the public for the purposes of section 552.352 of the Government Code or a selective disclosure of information to the public for the purposes of section 552.007. *See* Open Records Decision Nos. 680 at 7-8 (2003), 655 at 8-9 (1997). *Compare* Attorney General Opinion DM-353 at 4 n.6 (1995) (interagency transfer of information prohibited where confidentiality statute enumerates specific entities to which release of confidential information is authorized, and receiving agency is not among statute's enumerated entities).

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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/agn

Ref: ID# 442179

Enc. Submitted documents

c: Requestor
(w/o enclosures)