



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 16, 2012

Lieutenant William Ryan
Record Division
Pharr Police Department
1900 South Cage
Pharr, Texas 78577

OR2012-03913

Dear Lt. 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# 447958.

The Pharr Police Department (the "department") received a request for information pertaining to the requestor's daughter. You claim that 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 that other statutes make confidential, such as section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under 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. *See* Fam. Code § 51.02(2). Section 58.007 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[.]

Id. § 58.007(c), (e), (j)(1). Upon review, we find the submitted information involves juvenile delinquent conduct and a child engaged in conduct indicating a need for supervision occurring after September 1, 1997; therefore, the submitted information is subject to section 58.007. *See id.* § 51.03(a) (defining "delinquent conduct"); *see also 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, we find report number 11-47816 is confidential pursuant to section 58.007(c) of the Family Code and must be withheld in its entirety under section 552.101 of the Government Code. However, the requestor is a parent of a juvenile offender listed in the remaining reports. Therefore, the requestor has a right to inspect law enforcement records concerning her child under section 58.007(e). *See id.* § 58.007(e). However, personally identifiable information concerning any other juvenile suspects, offenders, victims, or witnesses must be redacted pursuant to section 58.007(j)(1) of the Family Code. *See id.* § 58.007(j)(1). For the purposes of section 58.007(j), we conclude a juvenile victim or witness is a person who is under eighteen years of age. Thus, the department must withhold the information identifying another juvenile suspect and a juvenile witness, which we have marked, under section 552.101 in conjunction with section 58.007(j)(1). We note we are unable to determine whether one witness listed in the submitted information was under eighteen years

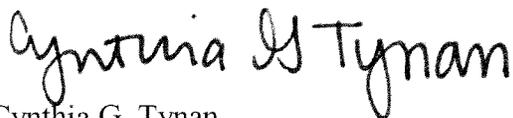
of age at the time of the incidents at issue. Thus, to the extent this witness was a juvenile at the time of the incidents at issue, the department must withhold her identifying information, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. To the extent this individual was not a juvenile at the time of the incidents at issue, the department may not withhold her identifying information on that basis.

In summary, the department must withhold report number 11-47816 under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. The department must withhold the juvenile witness and suspect information we have marked under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. To the extent the other witness was a juvenile at the time of the incidents at issue, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. The department must release the remaining information.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,



Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/dls

¹We note that the requestor has a special right of access to the information being released in this instance. Because such information is confidential with respect to the general public, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.

Ref: ID# 447958

Enc. Submitted documents

c: Requestor
(w/o enclosures)