



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 7, 2012

Ms. Cara Leahy White  
Taylor Olson Adkins Sralla Elam  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107

OR2012-04419A

Dear Ms. White:

This office issued Open Records Letter No. 2012-04419 (2012) on March 26, 2012. In that ruling, we found some of the submitted information: (1) must be withheld under section 552.101 of the Government Code in conjunction with section 58.007(j)(2) of the Government Code; (2) must be withheld under section 552.130 of the Government Code; and (3) may be withheld under section 552.147 of the Government Code. In a subsequent communication with our office, you informed us a court order restricts access to the responsive documents. Consequently, this decision serves as the correct ruling and is a substitute for the decision issued on March 26, 2012. *See* Gov't Code § 552.011 (providing Office of the Attorney General may issue a decision to maintain uniformity in application, operation, and interpretation of the Public Information Act (the "Act"))).

You ask whether certain information is subject to required public disclosure under the Act. Your request was assigned ID# 456229.

The Euless Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident. You claim the requested information is excepted from disclosure under sections 552.101, 552.107(2), 552.130, and 552.147 of the Government Code. We have considered the exceptions 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 is protected by other

statutes, 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. Section 58.007 provides in relevant 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.

...

(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:

...

(2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law.

Fam. Code § 58.007(c), (e), (j)(2). Upon review, we agree the submitted information consists of a law enforcement record of juveniles engaged in delinquent conduct after September 1, 1997. *See id.* §§ 51.02(2) (for purposes of section 58.007, "child" means person who is ten years of age or older and under seventeen years of age), .03(a) (defining

“delinquent conduct” for purposes of section 58.007). In this instance, however, you acknowledge the requestor is one of the juvenile suspects listed in this information. Thus, pursuant to section 58.007(e), the department may not withhold this information from the requestor under section 58.007(c). *See id.* § 58.007(e). However, section 58.007(j)(2) of the Family Code provides that information subject to any other exception to disclosure under the Act or other law must be redacted. *See id.* § 58.007(j)(2). Therefore, we will consider whether the submitted information is excepted from disclosure under the Act or other law.

We note you have submitted a court order of restricted access that pertains to the submitted information. The order was entered in accordance with section 58.203 of the Family Code, which states the Texas Department of Public Safety (“DPS”) shall certify that juvenile law enforcement records are subject to automatic restriction under certain circumstances. *Id.* § 58.203. Section 58.204(b) provides:

(b) On certification of records in a case under Section 58.203, [DPS] may permit access to the information in the juvenile justice information system relating to the case of an individual only:

(1) by a criminal justice agency for a criminal justice purpose, as those terms are defined by Section 411.082, Government Code; or

(2) for research purposes, by the Texas Juvenile Probation Commission, the Texas Youth Commission, or the Criminal Justice Policy Council.

*Id.* § 58.204(b). Furthermore, section 58.207 of the Family Code provides in relevant part:

(a) On certification of records in a case under Section 58.203, the juvenile court shall order:

(1) that the following records relating to the case may be accessed only as provided by Section 58.204(b):

...

(E) records maintained by a law enforcement agency[.]

...

(b) On receipt of an order under Subsection (a)(1), the agency maintaining the records:

(1) may allow access only as provided by Section 58.204(b); and

(2) shall respond to a request for information about the records by stating that the records do not exist.

*Id.* § 58.207(a)(1)(E), (b). The requestor in this instance is not one of the entities listed in section 58.204(b) to which access is allowed. Therefore, in accordance with the submitted order of restricted access and section 58.207(b), we find that the department must respond to this request for information by stating that the requested records do not exist.

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 H. Holland  
Assistant Attorney General  
Open Records Division

THH/ag

Ref: ID# 456229

Enc. Submitted documents

c: Requestor  
(w/o enclosures)