



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 21, 2012

Chief Craig Shelton
Whitehouse Police Department
P.O. Box 776
Whitehouse, Texas 75791

OR2012-13172

Dear Chief Shelton:

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# 462912.

The Whitehouse Police Department (the "department") received a request for the video recording of a specified incident. 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 section encompasses information made confidential by statute, such as former section 51.14(d) of the Family Code. Prior to its repeal by the Seventy-fourth Legislature, section 51.14(d) of the Family Code provided for the confidentiality of juvenile law enforcement records pertaining to conduct occurring before January 1, 1996. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2591; *see also* Open Records Decision No. 181 (1977) (concluding that former section 51.14(d) of the Family Code excepts police reports that identify juvenile suspects or furnish basis for their identification). You claim the submitted information is confidential under section 51.14. We note section 51.14 is inapplicable in this instance because the juvenile conduct at issue occurred after January 1, 1996. However, section 58.007 of the Family Code is applicable to this information. Section 58.007 of the Family Code makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. *See id.*

§ 51.03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision”). Section 58.007 provides in pertinent 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.

Fam. Code § 58.007(c), (e). For purposes of section 58.007(c), a “child” is a person who is ten years of age or older and under seventeen years of age. *See id.* §51.02(2). You state “[t]he requestor is the mother of one of the juveniles.” We note, however, the submitted information reveals the requestor’s daughter was eighteen years old at the time of the incident at issue. Thus, the requestor’s daughter is not a “child” for purposes of subsections 58.007(c) and 58.007(e). Accordingly, the requestor does not have a right of access to the submitted video recording pursuant to subsection 58.007(e). However, the two arrestees identified in the video recording were each sixteen years old at the time of the incident. Therefore, we find the submitted video recording involves juvenile delinquent conduct that occurred after September 1, 1997. It does not appear any of the exceptions in section 58.007 apply. Therefore, the submitted video recording is confidential under section 58.007(c) of the Family Code and must be withheld in its entirety under section 552.101 of the Government Code.

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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/som

Ref: ID# 462912

Enc. Submitted documents

c: Requestor
(w/o enclosures)