



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 22, 2012

Ms. Rebecca Brewer
Counsel for the City of Wylie
Abernathy, Roeder, Boyd & Joplin, P.C.
P.O. Box 1210
McKinney, Texas 75070-1210

OR2012-13290

Dear Ms. Brewer:

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# 463217.

The Wylie Police Department (the "department"), which you represent, received two requests from the same requestor for the name, mailing address, and alleged offense of each person booked in the City of Wylie jail during two specified periods of time. You state you have released some information to the requestor. You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor seeks only the names, addresses, and alleged offenses of the individuals at issue. Thus, any information that falls outside the scope of this request is not responsive. Our ruling does not address the public availability of information that is not responsive to the request, and the department is not required to release non-responsive information.

Next, we note you have not submitted for our review information responsive to the request for mailing addresses. To the extent such information existed on the date the department received the request, we assume you have released it. *See* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information,

it must release information as soon as possible). If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section encompasses information protected by other statutes, such as section 58.007 of the Family Code which 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.

Fam. Code § 58.007(c). Section 58.007(c) is applicable to records of juvenile delinquent conduct that occurred on or after September 1, 1997. *See id.* § 51.03(a)(defining "delinquent conduct" for purposes of section 58.007(c) of Family Code). The juvenile must have been at least ten years old and less than seventeen years of age when the conduct occurred. *See id.* § 51.02(2) (defining "child" for purposes of section 58.007(c) of Family Code). Upon review, we agree the information at issue, which you have marked, involves delinquent conduct that occurred after September 1, 1997. However, we are unable to determine the ages of the juvenile offenders at issue. Accordingly, we must rule conditionally. It does not appear any of the exceptions in section 58.007 apply to this information. Thus, to the extent any of the offenders at issue were ten years of age or older and under seventeen years of age at the time the conduct occurred, the responsive information at issue is confidential pursuant to section 58.007(c) of the Family Code and must be withheld under section 552.101 of the Government Code. In that event, the remaining responsive information must be released. However, if the information at issue pertains to offenders who were not ten years of age or older and under seventeen years of age at the time the conduct occurred, the responsive information at issue is not confidential pursuant to section 58.007(c) and may not be withheld under section 552.101 on that basis. In that event, as you raise no further exceptions to disclosure, the responsive information must be released.

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,

A handwritten signature in black ink, appearing to read "Michelle R. Garza". The signature is fluid and cursive, with the first name "Michelle" written in a larger, more prominent script than the last name "Garza".

Michelle R. Garza
Assistant Attorney General
Open Records Division

MRG/som

Ref: ID# 463217

Enc. Submitted documents

c: Requestor
(w/o enclosures)