



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 29, 2012

Ms. Tiffany N. Evans
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2012-13712

Dear Ms. Evans:

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# 463395 (GC No. 19764).

The Houston Police Department (the "department") received a request for information pertaining to two specified report numbers. You state the department does not have any records responsive to part of the request.¹ 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. This section encompasses information made confidential 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,

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

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). Juvenile law enforcement records relating to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997 are confidential under section 58.007(c). *See id.* § 51.03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision”). For purposes of section 58.007(c), “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. *Id.* § 51.02(2). We find report number 047381204-S involves delinquent conduct that occurred after September 1, 1997. It does not appear any of the exceptions in section 58.007 of the Family Code apply to the information at issue. Therefore, we find the department must withhold report number 047381204-S under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. Although the department states the remaining information involves juvenile offenders, report number 042851004-I does not list any suspect by name or age. Because report number 042851004-I does not identify a juvenile engaged in delinquent conduct, the department has failed to demonstrate the remaining information is a juvenile law enforcement record for section 58.007 purposes. Accordingly, report number 042851004-I may not be withheld under section 552.101 on this basis.

We note some of the information in report number 042851004-I is subject to section 552.130 of the Government Code, which provides information relating to a motor vehicle operator’s license or driver’s license issued by an agency of this state, another state, or country is excepted from public release.² Gov’t Code § 552.130. Accordingly, the department must withhold the information we have marked in report number 042851004-I under section 552.130 of the Government Code.

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the department must withhold report number 047381204-S under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. The department must also withhold the information we have marked under section 552.130 of the Government Code. The department must release the remaining information.

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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/tch

Ref: ID# 463395

Enc. Submitted documents

cc: Requestor
(w/o enclosures)