



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 5, 2012

Ms. Delietrice Henry
Open Records Assistant
Plano Police Department
P.O. Box 860358
Plano, Texas 75086-0358

OR2012-14050

Dear Ms. Henry:

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# 464281 (Plano ORR #WILC061312 and #HOLN061312).

The Plano Police Department (the "department") received two requests for information pertaining to a specified incident. 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 protected by other statutes, such as section 58.007 of the Family Code, which 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.

...

(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; and

(2) any information that is excepted from required disclosure under [the Act], or other law.

Fam. Code § 58.007(c), (e), (j). 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. *See id.* § 51.03(a) (defining "delinquent conduct"). 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. *See id.* § 51.02(2). The submitted information involves children engaged in delinquent conduct that occurred after September 1, 1997. As such, this information is generally confidential under section 58.007(c). Although the submitted information reflects the second requestor is a parent of one of the juvenile offenders, the juvenile offender at issue is now an adult. Accordingly, the second requestor no longer has a right of access to her adult child's records under section 58.007(e). *See id.* § 58.007(e). As to the second requestor, it does not appear that any of the exceptions to confidentiality under section 58.007 apply. Accordingly, the department must withhold the submitted information in its entirety from the second requestor under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

You state, and the submitted information reflects, the first requestor is one of the juvenile offenders listed in the report, and is now an adult. Therefore, in accordance with section 58.007(e), the department may not use section 58.007(c) to withhold this information from the first requestor. *See id.* § 58.007(e). However, section 58.007(j)(1) provides that any identifiable information about a juvenile suspect, offender, victim, or witness who is not the requestor must be redacted. *Id.* § 58.007(j)(1). You seek to withhold the identifying information of another juvenile in the submitted information under section 58.007(j)(1). Upon review, we conclude the department must withhold the identifying information of the juvenile offender who is not the first requestor, which we have marked, from the first requestor under section 552.101 in conjunction with section 58.007(j)(1) of the Family Code. We find none of the remaining information at issue identifies a juvenile suspect, offender, victim, or witness other than the requestor; thus, none of the remaining information may be withheld from the first requestor under section 552.101 on this basis. However, section 58.007(j)(2) provides that information subject to any other exception to disclosure under the Act or law must be redacted. *Id.* § 58.007(j)(2).

We note portions of the remaining information are subject to section 552.130 of the Government Code.¹ Section 552.130 provides information relating to a motor vehicle operator's or driver's license or permit issued by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a)(1). We find the department must withhold the information we have marked under section 552.130 of the Government Code.

In summary, the department must withhold the submitted information in its entirety from the second requestor under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. The department must withhold the identifying information we have marked from the first requestor under section 552.101 in conjunction with section 58.007(j)(1) of the Family Code. The department must withhold the information we have marked from the first requestor under section 552.130 of the Government Code. The department must release the remaining information to the first requestor.

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,

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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 that reads "Lindsay E. Hale". The signature is written in a cursive style with a large, looping initial "L".

Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/ag

Ref: ID# 464281

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)