



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 17, 2012

Ms. Doris "Dot" Preusse  
Senior Records Clerk  
Central Records  
Pflugerville Police Department  
P.O. Box 679  
Pflugerville, Texas 78691

OR2012-16515

Dear Ms. Preusse:

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# 472906.

The Pflugerville Police Department (the "department") received a request for reports involving the requestor's child and a specified time period. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the information you submitted.

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 exception encompasses information made confidential by other statutes. Section 58.007 of the Family Code provides in part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise,

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<sup>1</sup> Although you also raise section 552.108 of the Government Code, you have provided no arguments in support of the applicability of that exception. Therefore, the department may not withhold any of the submitted information under section 552.108. See Gov't Code §§ 552.301(e)(1)(A) (governmental body must provide written comments in support of applicability of each exception it claims), .302; see also *id.* § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 177 at 3 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver).

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[.]

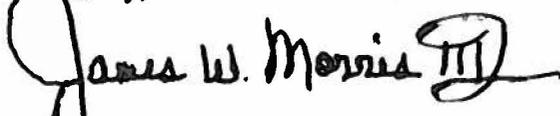
Fam. Code § 58.007(c), (e), (j)(1); *see id.* § 51.03(a)-(b) (defining "delinquent conduct" and "conduct indicating need for supervision" for purposes of Fam. Code title 3). Section 58.007(c) is applicable to records of juvenile conduct that occurred on or after September 1, 1997. *See* Act of June 2, 1997, 75<sup>th</sup> Leg., R.S., ch. 1086, §§ 20, 55(a), 1997 Tex. Gen. Laws 4179, 4187, 4199; Open Records Decision No. 644 (1996). Although the submitted information involves a juvenile offender, so as to be generally confidential under section 58.007(c) of the Family Code, the juvenile is the requestor's child. The requestor has a right to inspect juvenile law enforcement records concerning her child pursuant to section 58.007(e) of the Family Code. *See* Fam. Code § 58.007(e). Section 58.007(j) of the Family Code provides, however, that any personally identifiable information concerning other juvenile suspects, offenders, victims, or witnesses must be redacted. *See id.* § 58.007(j)(1). For purposes of section 58.007(j), a juvenile suspect or offender is a child as defined by section 51.02 of the Family Code. *See id.* § 51.02(2) ("child" means a person who is ten years of age or older and under seventeen years of age). A juvenile victim or

witness, for purposes of section 58.007(j)(1), is a person who is under eighteen years of age. Therefore, the department must withhold any information that identifies a juvenile suspect, offender, victim, or witness other than the requestor's child under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. The department must release the rest of the submitted information pursuant to section 58.007(e) of the Family Code.<sup>2</sup>

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,



James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/bhf

Ref: ID# 472906

Enc: Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>Because the requestor has a right of access to information the department would be required to withhold from the general public, the department must request another decision if it receives another request for this same information from a different requestor. See Gov't Code §§ 552.301(a), .302.