



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 19, 2013

Ms. Ashley D. Fourt
Assistant District Attorney
Office of the Criminal District Attorney
Tarrant County
401 West Belknap, Ninth Floor
Fort Worth, Texas 76196-0201

OR2013-06426

Dear Ms. Fourt:

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# 484520.

The Tarrant County Juvenile Services Department (the "department") received a request for information pertaining to a named individual. 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. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

Initially, we note some of the submitted information is not responsive to the present request for information because it was created after the present request for information was received.¹ This ruling does not address the public availability of any information that is not

¹The Act does not require a governmental body to release information that did not exist when it received a request, create responsive information, or obtain information that is not held by the governmental body or on its behalf. *See Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

responsive to the request, and the department need not release such information in response to this request.

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. Section 552.101 encompasses section 58.007(b) of the Family Code, which makes confidential juvenile records or files relating to conduct that occurred on or after September 1, 1997. Section 58.007(b) provides:

(b) Except as provided by Article 15.27, Code of Criminal Procedure, the records and files of a juvenile court, a clerk of court, a juvenile probation department, or a prosecuting attorney relating to a child who is a party to a proceeding under [Title 3 of the Family Code] are open to inspection only by:

(1) the judge, probation officers, and professional staff or consultants of the juvenile court;

(2) a juvenile justice agency as that term is defined by Section 58.101;

(3) an attorney for a party to the proceeding;

(4) a public or private agency or institution providing supervision of the child by arrangement of the juvenile court, or having custody of the child under juvenile court order; or

(5) with leave of the juvenile court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

...

(i) In addition to the authority to release information under Subsection (b)(5), a juvenile probation department may release information contained in its records without leave of the juvenile court pursuant to guidelines adopted by the juvenile board.

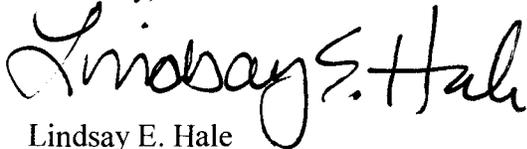
Fam. Code § 58.007(b), (i). You state the responsive information consists of records maintained by the department concerning a juvenile offender. We understand the responsive information relates to a juvenile who was a party to proceedings under the Juvenile Justice Code, Title 3 of the Family Code. Although the requestor represents the individual at issue, we note the submitted request reflects he represents him on a separate charge that is not a proceeding under the Juvenile Justice Code; therefore, we find the requestor is not one of the persons or entities authorized to access this information under section 58.007(b). However,

as a juvenile probation department, the department has the discretion to release the responsive information pursuant to guidelines adopted by the juvenile board. *See id.* § 58.007(i). You do not inform us the juvenile board has adopted a rule governing the release of this type of information; therefore, we assume no such regulation exists. Given that assumption, and based on our review of the submitted information, the department must withhold the responsive information under section 552.101 of the Government Code in conjunction with section 58.007(b) of the Family 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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/tch

Ref: ID# 484520

Enc. Submitted documents

c: Requestor
(w/o enclosures)