



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 6, 2013

Ms. Rachel L. Lindsay
Counsel for the City of McKinney
Brown & Hofmeister, LLP
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2013-07442

Dear Ms. Lindsay:

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# 486593 (City of McKinney ORR# 10-6846).

The McKinney Police Department (the "department"), which you represent, received a request for three specified reports. 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. Section 552.101 of the Government Code encompasses information protected by other statutes such as section 58.007 of the Family Code, which provides in pertinent part 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, 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. *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 conduct. *See id.* § 51.02(2). Upon review, we find report numbers 13-000129 and 13-001307 involve children engaged in delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. As such, this information constitutes juvenile law enforcement records that are confidential pursuant to section 58.007(c). It does not appear that any of the exceptions to confidentiality under section 58.007 apply in this instance. Accordingly, the department must withhold report numbers 13-000129 and 13-001307, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. However, we find none of the remaining information constitutes a juvenile law enforcement record relating to delinquent conduct or conduct indicating a need for supervision of a juvenile suspect or offender. As such, you have failed to demonstrate the applicability of section 58.007 to the remaining information, and the department may not withhold any of the remaining information under section 552.101 on this basis. As you raise no further exceptions to disclosure, the remaining information must be released.¹

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

¹We note the information being released in this instance contains the requestor’s motor vehicle record information, which is generally confidential under section 552.130(a)(2) of the Government Code. However, because section 552.130 protects personal privacy, the requestor has a special right of access to his information under section 552.023 of the Government Code. *See Gov’t Code* § 552.023(a) (governmental body may not deny access to person to whom information relates, or that party’s representative, solely on grounds that information is considered confidential by privacy principles). Accordingly, if the department receives another request for this information from a person who does not have such a right of access, the department must again seek a ruling from this office.

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 "Kathleen J. Santos". The signature is fluid and cursive, with the first name being the most prominent.

Kathleen J. Santos
Assistant Attorney General
Open Records Division

KJS/som

Ref: ID# 486593

Enc. Submitted documents

c: Requestor
(w/o enclosures)