



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 26, 2013

Mr. C. Tyler Atkinson  
Ms. Michelle M. Kretz  
Assistant City Attorneys  
City of Fort Worth  
1000 Throckmorton Street, Third Floor  
Fort Worth, Texas 76102

OR2013-16745

Dear Mr. Atkinson and Ms. Kretz:

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# 503916 (PIR Nos. W027948, W028249).

The City of Fort Worth (the "city") received two requests for information from different requestors 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. Section 552.101 encompasses information protected by other statutes, such as section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct by a child that occurred on or after September 1, 1997. Fam. Code § 58.007(c). Section 58.007(c) provides:

(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.

*Id.* 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. *See id.* § 51.02(2).

The information at issue involves conduct that occurred after September 1, 1997. *See id.* § 51.03 (defining “delinquent conduct” and “conduct in need of supervision” for purposes of Fam. Code § 58.007). However, we are unable to determine the age of the suspect. Therefore, we must rule conditionally. If the suspect was ten years of age or older and under seventeen years of age at the time of the conduct, then the submitted information is confidential pursuant to section 58.007(c) of the Family Code and must be withheld under section 552.101 of the Government Code. However, if the submitted information pertains to a suspect who was not ten years of age or older and under seventeen years of age at the time of the conduct, then the submitted information is not confidential pursuant to section 58.007(c) and may not be withheld under section 552.101 on that basis. In that case, the submitted information must be released.<sup>1</sup>

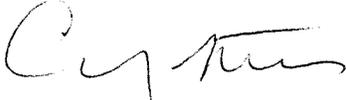
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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<sup>1</sup>We note the information being released if the submitted records are not confidential pursuant to section 58.007(c) includes information to which these requestors have a right of access under section 552.023 of the Government Code. *See Gov’t Code* §§ 552.023, .130; Open Records Decision No. 481 at 4 (1987). Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See Act of May 6, 2013, 83rd Leg., R.S., S.B. 458, § 1* (to be codified as an amendment to Gov’t Code § 552.130(c)). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See Gov’t Code* § 552.130(d), (e). Thus, should the city receive another request for the submitted information from a different requestor, the city is authorized to withhold the second requestor’s driver’s license information without requesting another ruling.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 503916

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)