



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 24, 2013

Mr. William P. Chesser
City Attorney
City of Brownwood
P.O. Box 1389
Brownwood, Texas 76804

OR2013-18554

Dear Mr. Chesser:

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# 503445.

The City of Brownwood (the "city") received a request for two specified police 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 encompasses confidentiality provisions such as section 58.007 of the Family Code. The relevant language of section 58.007 reads 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.

...

(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[.]

Fam. Code § 58.007(c), (e). 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 (defining "delinquent conduct" and "conduct indicating a need for supervision" for purposes of Fam. Code title 3). 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). Upon review, we find report number 13-001201 involves juvenile delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. Thus, this information is subject to section 58.007. We note the information at issue reveals the requestor is the foster parent of the juvenile offenders listed in the report. Section 58.007(e) allows a child's guardian access to the child's law enforcement records. *See id.* § 58.007(e). Section 51.02(4) of the Family Code defines a guardian as "the person, who, under court order, is the guardian of the person of the child or public or private agency with whom the child has been placed by the court." *Id.* § 51.02(4). We understand foster children are generally under the conservatorship of the Texas Department of Family and Protective Services ("DFPS"), and the courts may order certain parties, such as foster parents, to provide certain care and to have certain responsibilities. *See, e.g., id.* §§ 161.207-.208, 263.001, 264.122, 266.001, 266.004. The requestor's rights as a guardian of the foster children at issue are to be determined by order of the court and as approved by DFPS. Accordingly, if the city determines the requestor is the guardian of the foster children for purposes of section 58.007, then the requestor may inspect or copy report number 13-001201 pursuant to section 58.007(e). If the city determines the requestor is not the guardian of the foster children for purposes of section 58.007, then report number 13-001201 is confidential under section 58.007(c) and must be withheld pursuant to section 552.101 of the Government Code.

We note the remaining report pertains to a seventeen year old arrestee. Thus, we find you have failed to establish how the remaining information at issue constitutes a juvenile law enforcement record subject to section 58.007(c) of the Family Code. Accordingly, the city may not withhold the remaining report at issue under section 552.101 in conjunction with

section 58.007(c) of the Family Code. As no further exceptions to disclosure have been raised for this information, it must be released.

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.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,



Nneka Kanu
Assistant Attorney General
Open Records Division

NK/bhf

Ref: ID# 503445

Enc. Submitted documents

c: Requestor
(w/o enclosures)