



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 5, 2013

Mr. Bryan McWilliams
Public Safety Legal Advisor
Assistant City Attorney
City of Amarillo
200 Southeast Third Avenue
Amarillo, Texas 79101-1514

OR2013-21148

Dear Mr. McWilliams:

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# 512337 (APD #13-1957 and #13-1959).

The Amarillo Police Department (the "department") received a request for incident reports involving a specified address during a specified time period, as well as information pertaining to a specified incident. The department received a separate request from the same request for specified audio dispatch, specified statements submitted by the requestor, and incident reports involving a specified address during a specified time period. You state the department has released some of the responsive information. 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.

You inform us incident report number 2012-0523583 was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2012-18319 (2012). In that ruling, we concluded that, with the exception of basic information which must be released, the department may withhold incident report number 2012-0523583 under section 552.108(a)(2) of the Government Code. We have no indication the law, facts, and circumstances on which Open Records Letter No. 2012-18319 was based have changed. Accordingly, we conclude the department may continue to rely on Open Records Letter No. 2012-18319 as a previous determination and withhold or release incident report

number 2012-0523583 in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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 section 58.007 of the Family Code, which 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, 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); *see id.* § 51.03(a)(defining “delinquent conduct” for purposes of title 3 of Family Code). Section 58.007(c) is applicable to records of juvenile conduct that occurred on or after September 1, 1997. The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See id.* § 51.02(2) (defining “child” for purposes of title 3 of Family Code). We find incident report number 2008-0026542 involves a juvenile offender, so as to fall within the scope of section 58.007(c). It does not appear that any of the exceptions in section 58.007 apply; therefore, the department must withhold incident report number 2008-0026542 under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

In summary, the department may continue to rely on our ruling in Open Records Letter No. 2012-18319 as a previous determination and withhold or release incident report number 2012-0523583 in accordance with that decision. The department must withhold

incident report number 2008-0026542 under section 552.101 of the Government Code in conjunction with section 58.007(c) 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.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,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/ac

Ref: ID# 512337

Enc. Submitted documents

c: Requestor
(w/o enclosures)