



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 19, 2014

Ms. Andrea D. Russell
Counsel for the City of Saginaw
Taylor Olson Adkins Sralla Elam
6000 Western Place, Suite 200
Fort Worth, Texas 76107

OR2014-03080

Dear Ms. Russell:

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# 514410 (Saginaw RID# 8166).

The City of Saginaw (the "city"), which you represent, received a request for a police record check for a specified individual. You state you will redact information subject to section 552.130 of the Government Code.¹ You claim the remaining information is excepted from disclosure under section 552.107(2) of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.107(2) of the Government Code provides that information is excepted from disclosure if "a court by order has prohibited disclosure of the information." Gov't Code § 552.107(2). You have submitted a copy of an Order of Restricted Access entered in accordance with section 58.203 of the Family Code, which states the Texas Department of Public Safety ("DPS") shall certify that juvenile law enforcement records are subject to

¹Section 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. 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 id.* § 552.130(d), (e).

automatic restriction of access under certain circumstances. Fam. Code § 58.203. Section 58.207 of the Family Code provides in relevant part:

(a) On certification of records in a case under Section 58.203, the juvenile court shall order:

(1) that the following records relating to the case may be accessed only as provided by Section 58.204(b):

...

(E) records maintained by a law enforcement agency[.]

...

(b) Except as provided by Subsection (c), on receipt of an order under Subsection (a)(1), the agency maintaining the records:

(1) may allow access only as provided by Section 58.204(b); and

(2) shall respond to a request for information about the records by stating that the records do not exist.

(c) Notwithstanding Subsection (b) of this section and Section 58.206(b), with the written permission of the subject of the records, an agency under Subsection (a)(1) may allow military personnel, including a recruiter, of this state or the United States to access juvenile records in the same manner authorized by law for records to which access has not been restricted under this section.

Id. § 58.207(a)(1)(E), (b), (c). In this instance, the requestor identifies himself as a recruiter for the United States Navy (the "Navy"), the requestor made the request for information for recruiting purposes, and the individual being investigated provided the Navy with a signed authorization for the release of the information at issue. As such, pursuant to section 58.207(c), the city may allow the requestor access to the submitted information in the same manner authorized by law for records for which access has not been restricted under section 58.207.

Section 552.101 of the Government Code exempts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."²

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Gov't Code § 552.101. Section 552.101 encompasses section 58.007 of the Family Code. Section 58.007 makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. 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 incident. *See* Fam. Code § 51.02(2). 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.

...

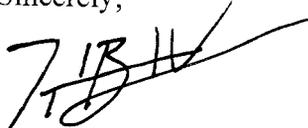
(e) Law enforcement records and files concerning a child may be inspected or copied by a juvenile justice agency as that term is defined by Section 58.101, a criminal justice agency as that term is defined by Section 411.082, Government Code, the child, and the child's parent or guardian.

Id. § 58.007(c), (e). We find the submitted information involves a juvenile engaged in delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. Therefore, the submitted information is subject to section 58.007. However, as noted above, the requestor is the authorized representative of the juvenile offender listed in the report. Thus, the requestor has a right to inspect law enforcement records concerning this individual under section 58.007(c). *Id.* § 58.007(e). Accordingly, the submitted information must be released to this requestor.

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,

A handwritten signature in black ink, appearing to read "JBH" with a stylized flourish extending to the right.

Joseph Behnke
Assistant Attorney General
Open Records Division

JB/eb

Ref: ID# 514410

Enc. Submitted documents

c: Requestor
(w/o enclosures)