



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 22, 2009

Mr. J. David Dodd, III
Nichols, Jackson, Dillard, Hager & Smith, L. L. P.
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

OR2009-00872

Dear Mr. Dodd:

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# 332783.

The City of DeSoto (the "city"), which you represent, received two requests from the same requestor for the 911 calls and squad car video pertaining to a specified incident. You state that the city does not possess any squad car video of the incident.¹ You claim that the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that because the instant requests are for the 911 calls and squad car video, the submitted arrest report is not responsive to the requests. The city need not release non-responsive information in response to this request and this ruling will not address the public availability of that 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: This section encompasses information protected by other statutes. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007 of the Family Code. Section 58.007(c) provides as follows:

Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise,

¹The Act does not require a governmental body to obtain information that is not held by or on behalf of the governmental body. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 267-68 (Tex. Civ. App.—San Antonio, 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986).

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 Subchapter B.

Fam. Code § 58.007(c). For purposes of section 58.007, "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). Upon review, we agree that the submitted information pertains to juvenile delinquent conduct that occurred after September 1, 1997. Therefore, the submitted information is confidential under section 58.007(c) of the Family Code and must be withheld in its entirety under section 552.101 of the Government Code. As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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.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 at (512) 475-2497.

Sincerely,



Greg Henderson
Assistant Attorney General
Open Records Division

GH/jb

Ref: ID# 332783

Enc. Submitted documents

c: Requestor
(w/o enclosures)