



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 3, 2009

Ms. Luz E. Sandoval-Walker
Assistant City Attorney
City of El Paso
2 Civic Center Plaza, 9th Floor
El Paso, Texas 79901

OR2009-01385

Dear Ms. Sandoval-Walker:

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# 334099.

The El Paso Police Department (the "department") received a request for a specified incident report. You claim the requested 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. This section encompasses information protected by section 58.007 of the Family Code. Law enforcement records involving juvenile offenders and relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. Section 58.007(c) 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 Subchapter B.

Fam. Code § 58.007(c). Section 51.02(2)(A) defines “child” as a person who is ten years of age or older and under seventeen years of age. *Id.* § 51.02(2)(A). Section 58.007 is applicable to information that relates to a juvenile as a suspect or offender, and not as a complainant, victim, witness, or other involved party. *See id.* § 58.007(c); *see also id.* § 51.03 (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of Fam. Code § 58.007). Although you assert the submitted incident report consists of a juvenile law enforcement record, you have not informed us, nor are we able to determine, the age of the suspects referenced in the submitted report. Thus, we find that you have failed to demonstrate that the submitted information is subject to section 58.007 of the Family Code. Therefore, the submitted information is not confidential under section 58.007 and the department may not withhold it under section 552.101 of the Government Code on that basis. As you raise no further exceptions to disclosure, the submitted information must be released to the 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.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,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/jb

Ref: ID# 334099

Enc. Submitted documents

cc: Requestor
(w/o enclosures)