



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 13, 2009

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

OR2009-01943

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# 336037.

The El Paso Police Department (the "department") received a request for a specific incident report. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.147 of the Government Code. We have considered the exceptions 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 section 58.007 of the Family Code, which provides for the confidentiality of juvenile law enforcement records related to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. *See* Open Records Decision No. 680 at 4 (2004); *see also* Fam. Code § 51.03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision"). Section 58.007 provides in relevant 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 Subchapter B, D, and E.

Fam. Code § 58.007(c). In order for section 58.007 to apply, a child must be identified in the information at issue as a suspect or offender. *See id.* § 51.02(2) (defining “child” as a person who is ten years of age or older and under seventeen years of age at the time of the conduct). Furthermore, the information at issue or the governmental body in its briefing to this office must establish the age of the involved child at the time of the conduct. In this instance, you have not established that the submitted information involves a juvenile suspect or offender. Accordingly, you have failed to establish that the information is confidential under section 58.007(c) of the Family Code. We therefore conclude that the department may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

You also contend that a social security number contained in the submitted information is protected from public disclosure under section 552.147 of the Government Code. Section 552.147 provides that the social security number of a living person is excepted from required public disclosure under the Act. *See Gov't Code* § 552.147(a). However, we note that the social security number in question belongs to the child of the requestor. Therefore, the department may not withhold the marked social security number on the basis of section 552.147. *See generally id.* § 552.023 (governmental body may not deny access to person to whom information relates, or that person's representative, solely on grounds that information is considered confidential by privacy principles).

As the department raises no further exceptions against disclosure, we conclude that the department must release the submitted information 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,



Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/jb

Ref: ID# 336037

Enc: Submitted documents

cc: Requestor
(w/o enclosures)