



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 11, 2009

Ms. Kristy Ashberry  
City Secretary  
City of Rockwall  
385 South Goliad  
Rockwall, Texas 75087

OR2009-11191

Dear Ms. Ashberry:

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# 351752.

The Rockwall Police Department (the "department") received a request for information regarding certain incidents involving named individuals at a specified address during a specified time period. You state the department will withhold social security numbers pursuant to section 552.147 of the Government Code. *See* Gov't Code § 552.147(b) (governmental body may redact social security number without necessity of requesting decision from this office under the Act). You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> 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. Section 552.101 encompasses information protected by other statutes, such as section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. For

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<sup>1</sup>While you cite section 552.108(5)(b) of the Government Code, which does not exist, we understand you to raise section 552.101 of the Government Code, as this section is the proper exception for the substance of your argument.

purposes of section 58.007, "child" means a person who is ten years of age or older and under seventeen years of age. *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 Subchapter 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.

Fam. Code § 58.007(c), (e). Section 58.007(c) is not applicable to information that relates to a juvenile as a complainant, victim, witness, or other involved party; it is only applicable to juveniles listed as suspects or offenders. *See id.* §§ 58.007, 51.03 (defining "delinquent conduct" and "conduct indicating a need for supervision" for purposes of section 58.007). We have reviewed the submitted information and find portions of it, which we have marked, involve juvenile conduct indicating a need for supervision that occurred after September 1, 1997. *See id.* § 51.03(b)(3) (defining "conduct indicating a need for supervision" to include "the voluntary absence of a child from the child's home without the consent of the child's parent or guardian for a substantial length of time or without intent to return"). Thus, the information we have marked is subject to section 58.007 and generally must be withheld. However, it appears the requestor may be a parent or guardian of the juvenile offender at issue. Under section 58.007(e), a child's parent or guardian has a right to inspect or copy law enforcement records concerning their own child. *See id.* § 58.007(e). Accordingly, if the requestor is not a parent or guardian of the juvenile offender at issue, then the department must withhold the information we have marked under section 552.101 in

conjunction with section 58.007(c) of the Family Code. However, if the requestor is a parent or guardian of the juvenile offender at issue, then the marked information may not be withheld under section 552.101 of the Government Code on that ground. *See id.* § 58.007(e). The remaining information does not identify a juvenile suspect or offender engaged in delinquent conduct or conduct indicating a need for supervision for the purposes of this section. Thus, you have failed to demonstrate the remaining information consists of juvenile law enforcement records. Therefore, the remaining information is not confidential under section 58.007 of the Family Code and may not be withheld under section 552.101 of the Government Code on this basis. As you raise no further exceptions to the disclosure of the remaining information, it must be released.

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](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,



Karen E. Stack  
Assistant Attorney General  
Open Records Division

KES/cc

Ref: ID# 351752

Enc. Submitted documents

c: Requestor  
(w/o enclosures)