



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 3, 2009

Ms. Eileen McPhee
Carls, McDonald & Dalrymple, L.L.P.
Barton Oaks Plaza 2
901 South Mopac Expressway, Suite 500
Austin, Texas 78746

OR2009-12511

Dear Ms. McPhee:

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# 354297 (CMcD request nos. 2106 and 2107).

The City of Georgetown (the "city"), which you represent, received two requests for any reports pertaining to the harassment of the requestor's son by Georgetown Independent School District students from the years 2005 through 2009. You state no responsive records exist from 2009. You claim that the submitted 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 exception encompasses information that other statutes make confidential. You raise section 552.101 in conjunction with section 58.007 of the Family Code, which provides in 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 Subchapters B, D, and E.

Fam. Code § 58.007(c). Section 58.007(c) is applicable to records of juvenile delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. In order for section 58.007(c) to apply, a child must be identified in the information at issue as a suspect or offender. *See id.* Section 51.02(2) of the Family Code defines a "child" for purposes of section 58.007 as a person who is ten years of age or older and under seventeen years of age at the time of the conduct. *Id.* § 51.02(2). We have reviewed the submitted reports and find most of them involve allegations that a child engaged in delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. *See id.* § 51.03 (defining "delinquent conduct" and "conduct indicating need for supervision" for purposes of Fam. Code § 58.007). None of the exceptions in section 58.007 apply to the information in these reports; therefore, the reports we marked are confidential under section 58.007(c) of the Family Code and must be withheld in their entirety under section 552.101 of the Government Code. However, report numbers 5015912 and 7052869 do not identify a suspect who was between the ages of ten and seventeen at the time of the conduct. *See id.* § 51.02(2). Accordingly, you failed to establish the remaining reports are confidential under section 58.007(c). These remaining reports 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, 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, toll free, at (888) 672-6787.

Sincerely,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/cc

Ref: ID# 354297

Enc. Submitted documents

cc: Requestor
(w/o enclosures)