



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 28, 2009

Mr. Humberto Aguilera
Escamilla & Poneck, Inc.
P.O. Box 200
San Antonio, Texas 78291-0200

OR2009-13594

Dear Mr. Aguilera:

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# 356492.

The San Antonio Independent School District (the "district"), which you represent, received two requests from the same requestor for a list of specified types of incident reports involving five specified schools and a specified time period. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted representative sample of information.²

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 section 58.007 of the Family Code, which

¹Although you initially raised sections 552.102, 552.103, 552.108, and 552.111 of the Government Code, you have not submitted arguments explaining how these exceptions apply to the submitted information. Therefore, we presume that you have withdrawn these exceptions. *See* Gov't Code §§ 552.301, 552.302.

²We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach and, therefore, does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. The relevant language of 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 Subchapters B, D, and E.

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). You represent to this office that some of the submitted information constitutes juvenile law enforcement records that pertain to juvenile suspects or offenders between the ages of ten and sixteen. *See id.* § 51.03 (defining "delinquent conduct" and "conduct indicating a need for supervision"). In addition, you do not indicate, nor it does it appear, that any of the exceptions in section 58.007 apply. However, we note the submitted records do not reflect the ages of the suspects involved. Therefore, to the extent the submitted information constitutes records of juvenile suspects or offenders engaged in delinquent conduct who are between the ages of ten and sixteen, it is confidential pursuant to section 58.007(c) of the Family Code and must be withheld in its entirety under section 552.101 of the Government Code. However, the district may not withhold the submitted information which does not pertain to a suspect or offender between the ages of ten and sixteen.

Regardless, we note that some of the submitted information does not list a suspect or offender. Section 58.007 does not apply to juveniles listed as a complainant, victim, witness, or other involved party. *See id.* § 58.007(c). Therefore, section 58.007 does not apply to this information, which we have marked, and it 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, 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,



Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/dls

Ref: ID# 356492

Enc. Submitted documents

c: Requestor
(w/o enclosures)