



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 1, 2009

Ms. Katie Lentz
Open Records
Williamson County Sheriff
508 South Rock Street
Georgetown, Texas 78626

OR2009-13852

Dear Ms. Lentz:

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# 357080.

The Williamson County Sheriff's Office (the "sheriff") received a request for a specified police report. You claim that the sheriff is not required to comply with the request for information pursuant to section 552.028 of the Government Code. Alternatively, you claim that the submitted information is excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. We have considered your arguments and reviewed the submitted information.

Section 552.028 of the Government Code provides in relevant part:

(a) A governmental body is not required to accept or comply with a request for information from:

(1) an individual who is imprisoned or confined in a correctional facility; or

(2) an agent of that individual, other than that individual's attorney when the attorney is requesting information that is subject to disclosure under [the Act].

(b) This section does not prohibit a governmental body from disclosing to an individual described by Subsection (a)(1), or that individual's agent, information held by the governmental body pertaining to that individual.

Gov't Code § 552.028(a)-(b). You inform us that a suspect listed in the submitted report is currently incarcerated by the Texas Department of Corrections, and you argue that the requestor made the present request for information as an agent of this incarcerated individual. In support of your assertion, you state that the requestor is the incarcerated individual's mother and referred to him in a previous request as her "favorite son." However, the fact that the requestor is the incarcerated individual's mother does not in itself establish that she submitted the request as an agent of her son. As you have not provided any additional information establishing that the requestor is in fact acting as an agent of an incarcerated individual, we cannot conclude that section 552.028 is applicable in this instance. Accordingly, we will address your arguments against disclosure under the Act.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 encompasses information made confidential by other statutes, including 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* Fam. Code § 51.03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision"); *see also 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). 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 Subchapters B, D, and E.

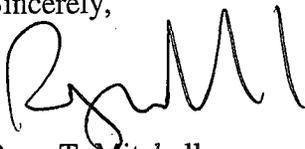
(e) Law enforcement records and files concerning a child may be inspected or copied by a juvenile justice agency as that term is defined by Section 58.101, a criminal justice agency as that term is defined by Section 411.082, Government Code, the child, and the child's parent or guardian.

Id. § 58.007(c), (e). The submitted police report involves three suspects, including a juvenile. Thus, this report constitutes a law enforcement record related to alleged juvenile delinquent conduct. Furthermore, the alleged delinquent conduct occurred after September 1, 1997, and we have no indication that the requestor is authorized to receive this information under section 58.007(e). Therefore, the submitted report is confidential in its entirety under section 58.007(c) of the Family Code, and the sheriff must withhold the report on this basis under section 552.101 of the Government Code. As this ruling is dispositive, we need not address your remaining arguments against disclosure.

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,



Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/rl

Ref: ID# 357080

Enc. Submitted documents

cc: Requestor
(w/o enclosures)