



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 9, 2009

Ms. Teresa J. Brown  
Senior Open Records Assistant  
Plano Police Department  
P.O. Box 860358  
Plano, Texas 75086-0358

OR2009-15905

Dear Ms. Brown:

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# 361006.

The Plano Police Department (the "department") received a request for information pertaining to a specified incident. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 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 information made confidential by other statutes such as section 58.007 of the Family Code. 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). You state that the submitted information consists of law enforcement records of juveniles who engaged in delinquent conduct after September 1, 1997. We note that, although the report identifies possible juvenile suspects involved in delinquent conduct, it fails to indicate that the identified suspects were ten years of age or older and under seventeen years of age at the time of the reported conduct. *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). Thus, we find you have failed to demonstrate that this report is a juvenile law enforcement record, and it may not be withheld under section 552.101 in conjunction with section 58.007 of the Family Code.

You also raise section 552.108(a)(1) of the Government Code. You state you will withhold the submitted report under section 552.108, as it relates to an ongoing criminal investigation, based upon the ruling in *Attorney General v. Plano Police Department*, No. GV-001919 (126th Dist., Travis County, Tex., December 18, 2000). Therefore, with the exception of basic information, the department may withhold the submitted information in accordance with the ruling in *Attorney General v. Plano Police Department*. We note that you have the discretion to release all or part of this information that is not otherwise confidential by law. Gov't Code § 552.007.

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, toll free, at (888) 672-6787.

Sincerely,



Matt Entsminger  
Assistant Attorney General  
Open Records Division

MRE/dls

Ref: ID# 361006

Enc. Submitted documents

c: Requestor  
(w/o enclosures)