



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 21, 2009

Ms. Teresa Brown
Senior Open Records Assistant
City of Plano
P.O. Box 860358
Plano, Texas 75086-0358

OR2009-18062

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# 365740.

The Plano Police Department (the "department") received a request for records of all incidents where police were called to the requestor's previous address during a specified time period. You state you have released some of the requested information to the requestor. You claim the remaining 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.

Initially, we must address the department's obligations under section 552.301 of the Government Code. Pursuant to section 552.301(b), the governmental body must ask for the attorney general's decision and state the exceptions that apply not later than the tenth business day after receiving the request. Gov't Code § 552.301(b). The request for information is stamped received by the department on September 28, 2009. However, your request for a ruling from this office is postmarked October 19, 2009. *See id.* § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Consequently, you failed to comply with the requirements of section 552.301 in requesting the decision from our office.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with section 552.301 results in the legal presumption that the requested information is public. In order to overcome the presumption that the requested information is public information, a governmental body must provide a compelling reason as to why the information should not be disclosed. See *id.* § 552.302; *City of Dallas v. Abbott*, 279 S.W.3d 806 (Tex. App.—Amarillo 2007, pet. granted); *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); see also Open Records Decision No. 630 (1994). A compelling reason exists when third party interests are at stake or when information is confidential under other law. Open Records Decision No. 150 (1977). Because your claim under section 552.101 of the Government Code can provide a compelling reason to withhold information, we will consider your argument under this exception.

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 of the Government Code 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). Under section 58.007, juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 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. *Id.* § 51.02(2). Upon review, we agree the submitted report identifies a juvenile suspect alleged to have engaged in delinquent conduct that occurred after September 1, 1997. See *id.* § 51.03(a) (defining "delinquent conduct"). It does not appear that any of the exceptions in section 58.007 apply. Therefore, the submitted report is confidential under section 58.007(c) of the Family Code. Accordingly, the department must

withhold this report from the requestor under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

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,



Christina Alvarado
Assistant Attorney General
Open Records Division

CA/rl

Ref: ID# 365740

Enc. Submitted documents

cc: Requestor
(w/o enclosures)