



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 13, 2014

Mr. David V. Overcash
Assistant City of Attorney for the City of Anna
Wolfe, Tidwell & McCoy, L.L.P.
2591 Dallas Parkway, Suite 205
Frisco, Texas 75034

OR2014-04231

Dear Mr. Overcash:

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# 518309 (City's File No. C03029PIR20131212-01).

The City of Anna (the "city"), which you represent, received a request for a specified arrest record. You claim the requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code.¹ 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 protected by section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. The relevant language of section 58.007 reads:

¹You acknowledge the city failed to comply with its procedural obligations under the Act. *See* Gov't Code § 552.301(b), (e). However, because sections 552.101 and 552.130 of the Government Code can provide compelling reasons to withhold information, we will address the applicability of these exceptions to the information at issue.

(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.

...

(j) Before a child or a child's parent or guardian may inspect or copy a record or file concerning the child under Subsection (e), the custodian of the record or file shall redact:

(1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child; and

(2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law.

Fam.Code § 58.007(c), (e), (j). The submitted reports involve delinquent conduct by a child that occurred after September 1, 1997. *See id.* § 51.03 (defining "delinquent conduct" for purposes of Fam. Code § 58.007). Therefore, the submitted information is subject to section 58.007.

In this instance, however, the requestor may be a parent or guardian of one of the juvenile offenders. As we are unable to make this determination, we must rule conditionally. If the

requestor is not a parent or guardian of one of the offenders in the submitted information, then the city must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. If the requestor is a parent or guardian of one of the offenders, then section 58.007(e) allows her access to her child's law enforcement records. *Id.* § 58.007(e). Nonetheless, before she is permitted to receive information concerning this information, the city must redact any personally identifying information about the other juvenile offender. *See id.* § 58.007(j)(1). Additionally, information subject to any other exception under the Act or other law must be redacted. *See id.* § 58.007(j)(2). As you claim section 552.130 of the Government Code, we will address the applicability of that exception.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country. *See Gov't Code* § 552.130(a)(1). The city must withhold the information you have marked, as well as the additional information we have marked, under section 552.130.²

In summary, if the requestor is not a parent or guardian of one of the juvenile offenders, then the city must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. If the requestor is a parent or guardian of one of the juvenile offenders, then: (1) the city must redact any personally identifying information about the other juvenile offender under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code, (2) the city must withhold the information marked under section 552.130 of the Government Code, and (3) the city must release the remaining information.³

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.

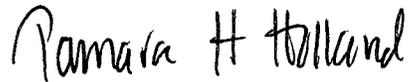
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

²Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *Gov't Code* § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

³We note the information being released in this instance includes information that is confidential with respect to the general public. Therefore, if the city receives another request for this information from a different requestor, the city must again seek a ruling from this office.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Tamara H. Holland". The signature is written in a cursive, flowing style.

Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/bhf

Ref: ID# 518309

Enc. Submitted documents

c: Requestor
(w/o enclosures)