



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 23, 2014

Mr. Bryan McWilliams  
Assistant City Attorney  
City of Amarillo  
200 Southeast Third Avenue  
Amarillo, Texas 79101-1514

OR2014-06705

Dear Mr. McWilliams:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Public Information Act (the "Act"). Your request was assigned ID# 520421 (Ref. No. 14-166).

The Amarillo Police Department (the "department") received a request for case number 20130534239. The department claims the information is excepted from disclosure under section 552.101 of the Government Code. We have considered the department's claimed exception and reviewed the submitted information.

Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply not later than the tenth business day after the date of receiving the written request. Gov't. Code § 552.301(b). The department states it received the present request for information on January 27, 2014. Thus, the tenth-business day deadline is February 10, 2014. However, the department's request a decision from this office was postmarked February 13, 2014. Consequently, the department failed to comply with section 552.301(b) of the Government Code.

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 information is public and must be released. *Id.* § 552.302. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to

Gov't Code § 552.302); Open Records Decision No. 319 (1982). This office has held that a compelling reason exists to withhold information when the information is confidential by another source of law. *See* Open Records Decision No. 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests). The applicability of section 552.101 of the Government Code is such a compelling reason.

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 section 58.007 of the Family Code, which provides in 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.

Fam. Code § 58.007(c). Section 58.007(c) is applicable to records of juvenile conduct that occurred on or after September 1, 1997. The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *Id.* § 51.02(2) (defining "child" for purposes of title 3 of Family Code). We find the requested information involves a juvenile offender and thus falls within the scope of section 58.007(c). It does not appear the exceptions in section 58.007 apply; therefore, the department must withhold the information under section 552.101 of the Government Code in conjunction with section 58.007(c) 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.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 providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/sdk

Ref: ID# 520421

Enc: Submitted documents

c: Requestor  
(w/o enclosures)