ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 9, 2014

Ms. Lisa D. Mares
Counsel for the City of McKinney
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2014-15872

Dear Ms. Mares:

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# 535663 (ORR 10-10884).

The McKinney Police Department (the "department") received a request for information pertaining to a named individual. You state the department has released some of the requested information. You claim the submitted 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.

We note you have submitted a court order of restricted access pertaining to the submitted information. You indicate the order was entered in accordance with section 58.203 of the Family Code, which states the Texas Department of Public Safety shall certify that juvenile law enforcement records are subject to automatic restriction under certain circumstances. Fam. Code § 58.203. Section 58.204(b) provides:

> (b) On certification of records in a case under Section 58.203, the [Texas Department of Public Safety] may permit access to the information in the juvenile justice information system relating to the case of an individual only:
>
> > (1) by a criminal justice agency for a criminal justice purpose, as those terms are defined by Section 411.082, Government Code; or

> (2) for research purposes, by the Texas Juvenile Probation Commission, the Texas Youth Commission, or the Criminal Justice Policy Council.

Id. § 58.204(b). Furthermore, section 58.207 of the Family Code provides in relevant part:

> (a) On certification of records in a case under Section 58.203, the juvenile court shall order:
>
> > (1) that the following records relating to the case may be accessed only as provided by Section 58.204(b):
> >
> > . . .
> >
> > (E) records maintained by a law enforcement agency[.]
> >
> > . . .
>
> (b) Except as provided by Subsection (c), on receipt of an order under Subsection (a)(1), the agency maintaining the records:
>
> > (1) may allow access only as provided by Section 58.204(b); and
> >
> > (2) shall respond to a request for information about the records by stating that the records do not exist.

Id. § 58.207(a)(1)(E), (b). In this instance, the requestor is a representative of the U.S. Probation Office for the United States District Court for the Eastern District of Texas (the "probation office"). She states the requested information involves an individual who is under investigation by the probation office. As noted above, section 58.204(b) provides access to "a criminal justice agency for a criminal justice purpose, as those terms are defined by Section 411.082, Government Code[.]" *Id.* § 58.204(b). Section 411.082 of the Government Code defines a "criminal justice agency" as including "a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and that allocates a substantial portion of its annual budget to the administration of criminal justice" and "a nongovernmental railroad or campus police department that has obtained an originating agency identifier from the Federal Bureau of Investigation." Gov't Code § 411.082(3)(A)-(B). "Administration of criminal justice" has the meaning assigned to it by article 60.01 of the Code of Criminal Procedure. *See id.* § 411.082(1). Article 60.01 defines "administration of criminal justice" as the "performance of any of the following activities: detection, apprehension, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of an offender. The term includes criminal identification activities and the collection, storage, and dissemination of criminal history record information." Crim. Proc. Code art. 60.01(1).

We understand the probation office is a criminal justice agency. *See* Gov't Code § 411.082. However, we are not able to determine whether the requestor seeks access to the requested information for a criminal justice purpose. Accordingly, if the department determines this particular requestor seeks access to the requested information for a criminal justice purpose, then the requestor has a right of access to the information at issue. Otherwise, the requestor has no right of access to this information, and in accordance with the submitted order of restricted access and section 58.207(b), we find the department must respond to the request by stating that the record at issue does not exist.

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,

Jennifer Luttrall

Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/akg

Ref: ID# 535663

Enc. Submitted documents

c: Requestor
(w/o enclosures)