



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 11, 2014

Ms. Donna L. Johnson
Counsel For City of Katy
Olson & Olson, L.L.P.
Wortham Tower, Suite 600
2727 Allen Parkway
Houston, Texas 77019-2133

OR2014-16103

Dear Ms. Johnson:

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# 537434 (Reference No. 14-002).

The Katy Police Department (the "department"), which you represent, received a request for the names, addresses, telephone numbers, type of alleged offense, and location of the alleged offense for all offenses issued by department officers during a specified time period.¹ You claim some of the submitted information is excepted from disclosure under section 552.101 of the Government Code.² We have considered the exception you claim and reviewed the

¹You state the department sought and received clarifications of the information requested. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

²The requestor contends the department did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(d). Nevertheless, because the exception you claim can provide a compelling reason to overcome the presumption of openness, we will consider your claimed exception for the submitted information. *See id.* §§ 552.007, .302, .352.

submitted representative sample of information.³ We have also considered comments submitted to this office by the requestor. *See* Gov't Code § 552.304 (interested party may submit written comments stating why information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 encompasses information protected by other statutes, including section 58.007 of the Family Code. Under section 58.007(c), juvenile law enforcement records relating to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997, are confidential. Section 58.007 provides, in relevant part, the following:

(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 the 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). For purposes of section 58.007(c), "child" is defined as a person who is ten years of age or older and under seventeen years of age at the time of the reported conduct. *See id.* § 51.02(2). You claim the information you have highlighted in the submitted information is subject to section 58.007. Upon review, we find the information we have marked involves allegations of delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. *See id.* § 51.03 (defining "delinquent conduct" and "conduct indicating a need for supervision" for purposes of Fam. Code § 58.007). However, we are unable to determine the ages of the alleged offenders. Accordingly, we must rule conditionally. It does not appear that any of the exceptions to

³We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

confidentiality under section 58.007 apply in this instance. Thus, to the extent the offenders were ten years of age or older and under seventeen years of age at the time of the conduct at issue, the information we have marked is confidential under section 58.007(c) and must be withheld in its entirety under section 552.101. However, to the extent the offenders were not ten years of age or older and under seventeen years of age at the time of the conduct at issue, the information we have marked is not confidential pursuant to section 58.007(c) and may not be withheld under section 552.101 on that basis. We note the remaining information at issue pertains to traffic offenses. Section 58.007 does not make information related to traffic offenses confidential. *See id.* § 51.02(16) (defining traffic offense); *see also id.* § 51.03. Upon review, we find you have failed to demonstrate the applicability of section 58.007(c) of the Family Code to the remaining information at issue. Accordingly, the department may not withhold the remaining information at issue under section 552.101 of the Government Code on this basis. As you raise no other exceptions to disclosure, the department must release the remaining information.

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,



Kristi L. Godden
Assistant Attorney General
Open Records Division

KLG/cz

Ref: ID# 537434

Enc. Submitted documents

c: Requestor
(w/o enclosures)