



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 19, 2015

Ms. Cynthia Trevino
Counsel for the City of Pflugerville
Denton, Navarro, Rocha, Bernal, Hyde & Zech, P.C.
2500 West William Cannon, Suite 609
Austin, Texas 78745

OR2015-05275

Dear Ms. Trevino:

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# 556936.

The Pflugerville Police Department (the "department") received a request for a list containing the names, dates of birth, and social security numbers of individuals who assaulted police officers during a specified time period, as well as the dates of the offenses. You state you will release some information to the requestor. You state the department will redact social security numbers pursuant to section 552.147(b) of the Government Code.¹ 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.

Initially, you inform us a list containing the requested information does not exist. We note the Act does not require a governmental body to answer general questions, perform legal research, or create new information in response to a request for information. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). However, the Act does require a governmental body to make a good faith effort to relate a request to information that the

¹Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See* Gov't Code § 552.147(b).

governmental body holds or to which it has access. *See* Open Records Decision Nos. 563 at 8, 561 at 8-9 (1990), 555 at 1-2, 534 at 2-3 (1989). As you have submitted information for our review, we presume the department has made a good faith effort to relate the request to information it maintains. Thus, we will address your argument against disclosure of the submitted information.

Next, we note the requestor only seeks the names, dates of birth, and social security numbers of individuals who assaulted police officers during a specified time period, as well as the dates of the offenses. Accordingly, any other information is not responsive to the present request for information. The department need not release the non-responsive information in response to this request, and this ruling will not address that information.

Section 552.101 of the Government Code exempts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information protected by other statutes, such as section 58.007 of the Family Code, which provides, in pertinent 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). 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 under section 58.007. *See id.* § 51.03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of section 58.007 of the Family Code). For purposes of section 58.007(c), “child” means a person who is ten years of age or older and under seventeen years of age at the time of the conduct at issue. *See id.* § 51.02(2). Upon review, we find most of the responsive information involves juvenile delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. As such, this information constitutes juvenile law enforcement records that are confidential pursuant to section 58.007(c). It does not appear any of the exceptions

to confidentiality under section 58.007 apply in this instance. Accordingly, the department must withhold this information, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. However, the remaining responsive information involves an offender aged seventeen years or older. Thus, the remaining responsive information, which we have marked, is not confidential under section 58.007(c) of the Family Code and may not be withheld under section 552.101 of the Government Code on that basis. As you raise no other exceptions to disclosure, the remaining responsive information we have marked must be released.

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,



Alley Latham
Assistant Attorney General
Open Records Division

AKL/dls

Ref: ID# 556936

Enc. Submitted documents

c: Requestor
(w/o enclosures)