



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 25, 2015

Ms. Yahitza Nunez  
Assistant District Attorney  
Hays County Criminal District Attorney's Office  
712 Stagecoach Trail, Suite 2057  
San Marcos, Texas 78666

OR2015-05672

Dear Ms. Nunez:

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# 557343 (Hays County Reference 15-0005).

The Hays County Criminal District Attorney's Office (the "district attorney's office") received a request for information pertaining to arrests of the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public 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 other statutes. The relevant language of section 58.007 of the Family Code reads as follows:

(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:

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<sup>1</sup>We note that although you raise section 552.108 of the Government Code, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim this section applies to the submitted information. See Gov't Code §§ 552.301, .302.

- (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.

Fam. Code § 58.007(c), (e). Juvenile law enforcement records relating to conduct 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(c), a "child" is 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). Section 58.007 allows the review or copy of juvenile law enforcement records by a child. *Id.* § 58.007(e).

Some of the submitted documents pertain to a juvenile engaged in delinquent conduct occurring after September 1, 1997; therefore, this information is subject to section 58.007. However, the requestor is the juvenile offender listed in the documents at issue and the juvenile is now an adult. Therefore, the requestor has a right of access under section 58.007(e) to the information at issue and it may not be withheld from him under section 552.101 of the Government Code on the basis of section 58.007(c).

We note some of the remaining information involves juvenile delinquent conduct or conduct indicating a need for supervision that occurred on January 27, 1996, and November 8, 1996. Prior to its repeal by the Seventy-Fourth Legislature, section 51.14(d) provided for the confidentiality of juvenile law enforcement records. *See Open Records Decision No. 181 (1977)* (concluding that former section 51.14(d) of the Family Code excepts police reports which identify juvenile suspects or furnish basis for their identification). Law enforcement records pertaining to juvenile conduct occurring before January 1, 1996 are governed by former section 51.14(d), which was continued in effect for that purpose. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2591. The Seventy-fifth Legislature amended section 58.007 to once again make juvenile law enforcement records confidential effective September 1, 1997. Act of June 2, 1997, 75th

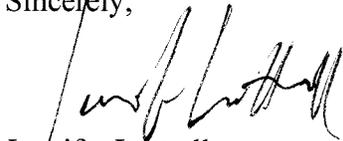
Leg., R.S., ch. 1086, 1997 Tex. Sess. Law Serv. 4179, 4187 (Vernon). However, the legislature chose not to make this most recent amendment retroactive in application. Consequently, law enforcement records pertaining to juvenile conduct that occurred between January 1, 1996 and September 1, 1997, are not subject to the confidentiality provisions of either the former section 51.14(d) or the current section 58.007 of the Family Code. Therefore, the information pertaining to conduct that occurred on January 27, 1996, and November 8, 1996 is not made confidential by either section 58.007 of the Family Code or the former section 51.14(d) of the Family Code. Accordingly, the district attorney's office may not withhold any portion of this information under section 552.101 of the Government Code on these bases.

The remaining information does not identify a suspect or offender who is ten years of age or older and under seventeen years of age. As such, section 58.007 is not applicable to the remaining information. Accordingly, the district attorney's office may not withhold the remaining information under section 552.101 on this basis. As the district attorney's office has raised no other exceptions to disclosure, the submitted information must be released to this requestor.<sup>2</sup>

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](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  
Assistant Attorney General  
Open Records Division

JL/akg

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<sup>2</sup>We note the information being released in this instance includes information that is confidential with respect to the general public. See Gov't Code § 552.023(a), ORD 481 at 4. Therefore, if the district attorney's office receives another request for this information from a different requestor, the district attorney's office must again seek a ruling from this office.

Ref: ID# 557343

Enc. Submitted documents

c: Requestor  
(w/o enclosures)