



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 27, 2015

Mr. Thomas L. McMillian
Assistant District Attorney
47th Judicial District of Texas
501 South Fillmore, Suite 5A
Amarillo, Texas 79101-2449

OR2015-10306

Dear Mr. McMillian:

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# 564832.

The 47th Judicial District Attorney's Office (the "district attorney's office") received a request for the "complete offense reports, TDC summary, and pre-sentence investigation reports" pertaining to three specified case numbers involving the requestor's client. You state the district attorney's office does not possess the TDC summary or the pre-sentence investigation reports.¹ You state the district attorney's office has provided the offense reports pertaining to two of the three specified case numbers. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note only the report labeled "Appendix F" is responsive to the instant request for information, as Appendix F relates to the remaining specified case number. Thus, the

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

remaining submitted information is not responsive to the present request.² This ruling does not address the public availability of non-responsive information, and the district attorney's office need not release non-responsive information.

Section 552.101 of the Government Code exempts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information made confidential by other statutes, such as section 58.007 of the Family Code, which provides, in relevant 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.

...

(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.

...

(j) Before a child or a child's parent or guardian may inspect or copy a record or file concerning the child under Subsection (e), the custodian of the record or file shall redact:

²As we are able to make this determination, we need not address your arguments against disclosure of this information.

(1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child; and

(2) any information that is excepted from required disclosure under [the Act] or other law.

Fam. Code § 58.007(c), (e), (j). Section 58.007(c) is applicable to records of juvenile delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. *See id.* § 51.03(a)-(b) (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of section 58.007). 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 reported conduct. *See id.* § 51.02(2). Upon review, we find the responsive information involves juvenile delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. Thus, this information is subject to section 58.007(c). In this instance, the requestor is the attorney for the juvenile suspect listed in the report. Therefore, this requestor has a right to inspect information concerning the juvenile offender at issue under section 58.007(e), and the information may not be withheld from her under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. *Id.* § 58.007(e). However, section 58.007(j)(1) provides any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the requestor’s child must be redacted. *See id.* § 58.007(j)(1). Accordingly, the district attorney’s office must withhold the identifying information of the juvenile witness in the information at issue, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. Additionally, section 58.007(j)(2) provides information subject to any other exception to disclosure under the Act or other law must be redacted. *See id.* § 58.007(j)(2). We note section 552.130 of the Government Code applies to some of the remaining responsive information.³ Thus, we will address the applicability of section 552.130 of the Government Code to the remaining responsive information.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See Gov’t Code* § 552.130. Accordingly, the district attorney’s office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, the district attorney’s office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of

³The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).*

the Family Code. The district attorney's office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The district attorney's office must release the remaining responsive information to this requestor.⁴

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,



Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/som

Ref: ID# 564832

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁴As noted above, the requestor has a right of access to the information at issue pursuant to section 58.007(e) of the Family Code. See Fam. Code § 58.007(e). Thus, 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. See Gov't Code §§ 552.301, .302; Open Records Decision No. 673 (2001).