



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 17, 2015

Ms. Shelia Webb
Property and Records Technician
City of Bridgeport
1000 Thompson Street
Bridgeport, Texas 76426

OR2015-16971

Dear Ms. Webb:

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# 575714.

The Bridgeport Police Department (the "department") received two requests from two different requestors for certain information pertaining to a specified incident. The first requestor seeks the video recordings and police report pertaining to the specified incident. The second requestor seeks the video recordings, police report, and a specified audio recording pertaining to the specified incident. You state you do not have information responsive to the portions of the requests seeking a police report.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.

Section 552.101 of the Government Code excepts 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 relevant part:

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

(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:

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

Fam. Code § 58.007(c), (e), (j)(1). 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). The information at issue involves juvenile 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). Thus, this information is generally confidential under section 58.007(c). In this instance, the first requestor is the parent of one of the juvenile offenders at issue. Therefore, this requestor has a right to inspect information concerning her child under section 58.007(e), and it 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). Further, the second requestor is the parent of the other juvenile offender at

issue. Therefore, this requestor has a right to inspect information concerning his child under section 58.007(e), and it may not be withheld from him 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). For purposes of section 58.007(j)(1), a juvenile suspect or offender is a child as defined by section 51.02 of the Family Code. *See id.* § 51.02(2) (defining "child" as a person who is ten years of age or older and younger than seventeen years of age when the conduct occurred). Accordingly, for each requestor, the personally identifiable information of the juvenile offender who is not the requestor's child is confidential under section 58.007(j)(1) of the Family Code. You state the department lacks the technological capability to redact this confidential information in the video recordings. Accordingly, the department must withhold the submitted video recordings in their entireties under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code.

Additionally, we find the submitted audio recording contains identifiable information about a juvenile offender who is not the second requestor's child. You assert the department does not have the technological capability to redact this confidential information from the audio recording at issue. However, because the department had the ability to copy the submitted audio recording for our review, we believe the department has the capability to produce a copy of only the non-confidential portions of the audio recording. Accordingly, the department must release the submitted audio recording to the second requestor; however, in releasing the information, the department must withhold the identifiable information of the juvenile offender who is not the second requestor's child under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code.

In summary, the department must withhold the submitted video recordings in their entireties under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. The department must release the submitted audio recording to the second requestor; however, in releasing the information, the department must withhold the identifiable information of the juvenile offender who is not the second requestor's child under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code.²

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.

²We note this requestor has a special right of access to the information being released pursuant to section 58.007(e) of the Family Code. *See* Fam. Code § 58.007(e). Accordingly, if the department receives another request for this information from a different requestor, the department should again seek a ruling from this office.

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,

A handwritten signature in black ink, appearing to read 'Kenny Moreland', written in a cursive style.

Kenny Moreland
Assistant Attorney General
Open Records Division

KJM/som

Ref: ID# 575714

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)