



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 19, 2015

Mr. Daniel Ortiz  
Assistant City Attorney  
City of El Paso  
P. O. Box 1890  
El Paso, Texas 79950

OR2015-17249

Dear Mr. Ortiz:

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# 577302 (El Paso Case No. 15-1026-6317).

The El Paso Police Department (the "department") received two requests from different requestors for a specified offense report. 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. Section 552.101 encompasses section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. *See* Fam. Code § 58.007(c). 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 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[.]

*Id.* § 58.007(c), (e), (j)(1). Upon review, we find the submitted information involves alleged juvenile delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. *See id.* § 51.03(a)-(b) (defining "delinquent conduct" and "conduct indicating a need for supervision"). Accordingly, the submitted information is generally confidential under section 58.007(c) of the Family Code.

You do not indicate, nor does it appear, that any of the exceptions in section 58.007 apply to this information with respect to the second requestor. Therefore, the department must withhold the submitted information from the second requestor under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

However, the first requestor may be one of the juvenile offenders and is now an adult. Under section 58.007(e), the former juvenile may inspect law enforcement records concerning herself. *See id.* § 58.007(e). However, the personally identifiable information concerning any other juvenile suspect, offender, victim, or witness must be redacted pursuant to section 58.007(j)(1). *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 person ten years of age or older and younger than seventeen years of age when conduct occurred). For the purposes of section 58.007(j)(1), a juvenile victim or witness is a person who is under eighteen years of age. Accordingly, to the extent the first requestor is one of the juvenile offenders listed in the submitted report, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code, and the

department must release the remaining information to this requestor. However, to the extent the first requestor is not one of the juvenile offenders listed in the submitted report, the department must withhold the submitted report in its entirety from the first requestor under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

In summary, the department must withhold the submitted information from the second requestor under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. To the extent the first requestor is one of the juvenile offenders listed in the submitted report, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code, and the department must release the remaining information to this requestor. However, to the extent the first requestor is not one of the juvenile offenders listed in the submitted report, the department must withhold the submitted report in its entirety from the first requestor under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

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,



Joseph Keeney  
Assistant Attorney General  
Open Records Division

JDK/eb

Ref: ID# 577302

Enc. Submitted documents

c: Requestor  
(w/o enclosures)