



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 5, 2016

Ms. Linda A. Samples  
Assistant City Attorney  
Office of the City Attorney  
City of El Paso  
P.O. Box 1890  
El Paso, Texas 79950-1890

OR2016-00186

Dear Ms. Samples:

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# 591550 (Ref No. 15-1026-6716).

The El Paso Police Department (the "department") received a request for a specified report. The department states it has released some of the requested information. The department claims the remaining requested information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception the department claims and reviewed the submitted information.

We note the information we have marked is not responsive to the instant request for information because it does not consist of the specified report. This ruling does not address the public availability of non-responsive information, and the department is not required to release non-responsive information in response to this request.

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<sup>1</sup>We note regardless of whether the department complied with section 552.301 of the Government Code in requesting this decision, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See Gov't Code* §§ 552.007, .301, .302, .352. Furthermore, although the department raises section 552.101 of the Government Code in conjunction with common-law and constitutional privacy, the department has not submitted arguments explaining how common-law or constitutional privacy applies to the submitted information. Therefore, we assume the department has withdrawn these claims. *See id.* §§ 552.301, .302.

We note the requested information is subject to a court order of restricted access. The order was entered in accordance with section 58.203 of the Family Code, which states the Texas Department of Public Safety (“DPS”) shall certify that juvenile law enforcement records are subject to automatic restriction of access under certain circumstances. Fam. Code § 58.203. Section 58.204(b) of the Family Code provides:

(b) On certification of records in a case under Section 58.203, [DPS] may permit access to the information in the juvenile justice information system relating to the case of an individual only:

(1) by a criminal justice agency for a criminal justice purpose, as those terms are defined by Section 411.082, Government Code;

(2) for research purposes, by the Texas Juvenile Justice Department;

(3) by the person who is the subject of the records on an order from the juvenile court granting the petition filed by or on behalf of the person who is the subject of the records;

(4) with the permission of the juvenile court at the request of the person who is the subject of the records;

(5) with the permission of the juvenile court, by a party to a civil suit if the person who is the subject of the records has put facts relating to the person’s records at issue in the suit; or

(6) with the written permission of the individual, by military personnel, including a recruiter, of this state or the United States if the individual is an applicant for enlistment in the armed forces.

*Id.* § 58.204(b). Moreover, section 58.207 of the Family Code provides, in part:

(a) On certification of records in a case under Section 58.203, the juvenile court shall order:

(1) that the following records relating to the case may be accessed only as provided by Section 58.204(b):

...

(E) records maintained by a law enforcement agency[.]

(b) [O]n receipt of an order under Subsection (a)(1), the agency maintaining the records:

(1) may allow access only as provided by Section 58.204(b); and

(2) shall respond to a request for information about the records by stating that the records do not exist.

*Id.* § 58.207(a)(1)(E), (b). In this instance, the requestor is not one of the entities listed in section 58.204(b) to which access is allowed. Therefore, pursuant to the order of restricted access and section 58.207(b) of the Family Code, the department must respond to this request for information by stating the requested information does not exist.<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,



David L. Wheelus  
Assistant Attorney General  
Open Records Division

DLW/bhf

Ref: ID# 591550

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>As our determination is dispositive, we need not address the department's remaining argument against disclosure.