



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 28, 2015

Mr. William Schultz
Assistant District Attorney
Civil Division
Denton County Criminal District Attorney's Office
1450 East McKinney Street, Suite 3100
Denton, Texas 76209

OR2015-15308

Dear Mr. Schultz:

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# 573394.

The Denton County Criminal District Attorney's Office (the "district attorney's office") received a request for audio and video recordings related to a specified criminal case. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Initially, we note some of the submitted information, which we have marked, is not responsive to the instant request because it was created after the date of the request. This ruling does not address the public availability of any information that is not responsive to the request and the district attorney's office is not required to release such information in response to this request.

Next, we note some of the submitted information may have been the subject of previous requests for information, as a result of which this office issued Open Records Letter

¹We note the district attorney's office did not comply with section 552.301 of the Government Code in raising section 552.101 of the Government Code. *See* Gov't Code § 552.301(e). Nevertheless, because the exception you claim can provide a compelling reason to overcome the presumption of openness, we will consider your claimed exception for the submitted information. *See id.* §§ 552.007, .302, .352.

Nos. 2014-14132 (2014) and 2012-17107 (2012). In those rulings, we determined the district attorney's office must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. We have no indication there has been any change in the law, facts, or circumstances on which the previous rulings were based. Accordingly, to the extent the submitted information is identical to the information previously requested and ruled upon by this office, we conclude the district attorney's office must rely on Open Records Letter Nos. 2014-14132 and 2012-17107 as previous determinations and withhold the identical information in accordance with those rulings.² *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure).

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 provides, in 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.

Fam. Code § 58.007(c); *see id.* § 51.03(a) (defining "delinquent conduct" for purposes of title 3 of Family Code). Section 58.007(c) is applicable to records of juvenile conduct that occurred on or after September 1, 1997. The juvenile must have been at least ten years old and less than seventeen years of age when the conduct occurred. *See id.* § 51.02(2) (defining "child" for purposes of title 3 of Family Code). We find the submitted information involves juvenile offenders, so as to fall within the scope of section 58.007(c). It does not appear that any of the exceptions in section 58.007 apply; therefore, the district attorney's

²As our ruling is dispositive, we need not address your argument against disclosure of this information.

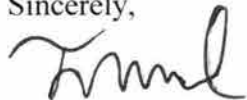
office must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

In summary, to the extent the submitted information is identical to the information previously requested and ruled upon by this office, we conclude the district attorney's office must rely on Open Records Letter Nos. 2014-14132 and 2012-17107 as previous determinations and withhold the identical information in accordance with those rulings. The district attorney's office must withhold the remaining information 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, 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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

Ref: ID# 573394

Enc. Submitted documents

c: Requestor
(w/o enclosures)