



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 14, 2016

Mr. Ryan D. Pittman
Counsel for the City of Wylie
Abernathy, Roeder, Boyd & Hullett, P.C.
1700 Redbud Boulevard, Suite 300
McKinney, Texas 75070-1210

OR2016-25309

Dear Mr. Pittman:

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# 634020.

The Wylie Police Department (the “department”), which you represent, received a request for a specified offense report. 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.

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 pertinent part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise,

¹Although you also raise section 552.023 of the Government Code, we note section 552.023 is not an exception to public disclosure under the Act. *See* Gov’t Code § 552.023 (“person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person’s privacy interests”).

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). Juvenile law enforcement records relating to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997, are confidential under section 58.007 of the Family Code. *See id.* § 51.03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of section 58.007 of the Family Code). 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 conduct at issue. *See id.* § 51.02(2). You assert the submitted information is confidential under section 58.007(c). Upon review, we find the submitted information involves juvenile delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. As such, this information constitutes juvenile law enforcement records that are generally confidential pursuant to section 58.007(c).

However, section 58.007(e) of the Family Code provides, “[l]aw 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 [of the Family Code or] a criminal justice agency as that term is defined by Section 411.082, Government Code[.]” *Id.* § 58.007(e). Section 411.082 of the Government Code defines a “criminal justice agency” as including “a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and that allocates a substantial portion of its annual budget to the administration of criminal justice.” Gov’t Code § 411.082(3)(A).

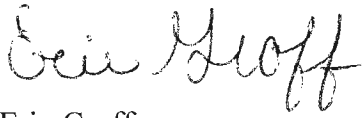
We note the requestor is a representative of the Probation and Pretrial Services Office of the United States District Court for the Northern District of Texas (the “probation office”). We understand the probation office is a criminal justice agency for purposes of section 58.007(e). Accordingly, the requestor has a right to inspect the submitted information under section 58.007(e) of the Family Code, and it may not be withheld from this requestor under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. We also note a statutory right of access prevails over the common law. *See Collins v. Tex Mall, L.P.*, 297 S.W.3d 409, 415 (Tex. App.—Fort Worth 2009, no pet.) (statutory

provision controls and preempts common law only when statute directly conflicts with common-law principle); *CenterPoint Energy Houston Elec. LLC v. Harris County Toll Rd. Auth.*, 436 F.3d 541, 544 (5th Cir. 2006) (common law controls only where there is no conflicting or controlling statutory law). Accordingly, the department must release the submitted information to this requestor pursuant to section 58.007(e) 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.

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,



Erin Groff
Assistant Attorney General
Open Records Division

EMG/som

Ref: ID# 634020

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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