



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 21, 2017

Ms. Lisa Newell
Management Aide
Corpus Christi Police Department
P.O. Box 9016
Corpus Christi, Texas 78469-9016

OR2017-26648

Dear Ms. Newell:

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# 690712 (CCPD File# NOLA1).

The Corpus Christi Police Department (the "department") received a request for a specified police 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. encompasses section 58.008 of the Family Code, which provides, in part:

(b) Except as provided by Subsection (d), law enforcement records concerning a child and information concerning a child that are stored by electronic means or otherwise and from which a record could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult records;

(2) if maintained electronically in the same computer system as adult records, accessible only under controls that are separate and distinct from the 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 Subsection (c) or Subchapter B, D, or E.

Fam. Code § 58.008(b); *see also id.* § 51.03(a), (b) (defining “delinquent conduct” for purposes of title 3 of Family Code), (defining “conduct indicating a need for supervision”). Section 58.008(b) is applicable to records of juvenile conduct that occurred before, on, or after September 1, 2017. *See id.* § 58.008(b). The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See id.* § 51.02(2) (defining “child” for purposes of title 3 of Family Code). We understand you to assert the submitted information is subject to section 58.008(b).¹ Upon review, we find the submitted involves delinquent conduct or conduct indicating a need for supervision for section 58.008(b) purposes. However, we are unable to discern the age of the offender in the information at issue. It does not appear that any of the exceptions in section 58.008 apply. Thus, to the extent the offender identified in the submitted information was ten years of age or older and under seventeen years of age at the time of the conduct at issue, this information is confidential under section 58.008(b) of the Family Code and the department must withhold it in its entirety under section 552.101 of the Government Code on that basis. However, to the extent the offender identified in the submitted information was not ten years of age or older and under seventeen years of age at the time of the conduct at issue, this information is not confidential pursuant to section 58.008(b) and the department may not withhold it under section 552.101 on that basis. In that instance, as you raise no further exceptions to disclosure, the department must release the submitted information to this requestor.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.

¹Although you raise section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code, we note the 85th Legislature repealed this provision effective September 1, 2017. Act of May 28, 2017, 85th Leg., R.S., ch. 746 (S.B. 1304), § 21.

²We note the requestor has a special right of access to any information being released under section 552.023 of the Government Code and section 261.201(k) of the Family Code. *See Gov’t Code* § 552.023(a) (governmental body may not deny access to person to whom information relates or person’s authorized representative on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves); *see also Fam. Code* § 261.201(k). If the department receives another request for this same information from a different requestor, it must again seek a ruling from this office. *See Gov’t Code* §§ 552.301, .302; Open Records Decision No. 673 (2001).

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/tdw

Ref: ID# 690712

Enc. Submitted documents

c: Requestor
(w/o enclosures)