



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 2, 2019

Mr. Thomas McMillian
Assistant City attorney
City of Amarillo
200 Southeast 3rd Avenue
Amarillo, Texas 79101

OR2019-08836

Dear Mr. McMillian:

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# 757452 (Request No. 19-102).

The Amarillo Police Department (the "department") received a request for information pertaining to a specified incident. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

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 58.008 of the Family Code, which provides, in part:

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(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 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” and “conduct indicating a need for supervision” for purposes of title 3 of Family Code). Section 58.008(b) is applicable to records of juvenile conduct that occurred before, on, or after September 1, 2017. *See* Act of May 28, 2017, 85th Leg., R.S., ch. 746, § 22, 2017 Tex. Sess. Law Serv. 3173, 3187. 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). Upon review, we find the submitted information involves a juvenile offender, so as to fall within the scope of section 58.008(b). It does not appear that any of the exceptions in section 58.008 apply. Accordingly, the department must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code.²

You ask us to issue a previous determination permitting the department to withhold information subject to section 552.108(a)(1) of the Government Code without the necessity of requesting an attorney general opinion. *See* Gov’t Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); *Houston Chronicle v. Mattox*, 767 S.W.2d 695, 698 (Tex. 1989) (acknowledging this office has authority under section 552.301 of the Government Code to decide what constitutes a previous determination); Open Records Decision No. 673 (2001) (describing the two types of previous determinations). We note our office issued a previous determination permitting the department to withhold certain information subject to section 552.108(a)(1) of the Government Code in Open Records Decision No. 2019-05295 (2019). This letter ruling is limited to the particular information at issue in this request and limited to the facts as

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

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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/jxd

Ref: ID# 757452

Enc. Submitted documents

c: Requestor
(w/o enclosures)