



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 26, 2019

Ms. DeAnne Lin
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002

OR2019-33388

Dear Ms. Lin:

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# 798573 (ORR# 19PIA0691).

The Harris County Juvenile Probation Department (the "probation department") received a request for the requestor's mugshot and all records related to her time in custody during a specified time period.¹ The probation department claims the submitted information is excepted from disclosure under section 552.101 of the Government Code.² We have considered the exception the probation department claims 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. Section 552.101 encompasses section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. Section 58.007 provides in relevant part the following:

¹ As the probation department has not submitted a copy of the complete request for information, we take our description from the probation department's brief.

² We note the probation department did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(e). Nonetheless, because the exception the probation department claims can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

(b) Except as provided by Section 54.051 (d-1) and by Article 15.27, Code of Criminal Procedure, the records, whether physical or electronic, of a juvenile court, a clerk of court, a juvenile probation department, or a prosecuting attorney relating to a child who is a party to a proceeding under [Title 3 of the Family Code] may be inspected or copied only by:

- (1) the judge, probation officers, and professional staff or consultants of the juvenile court;
- (2) a juvenile justice agency as that term is defined by Section 58.101;
- (3) an attorney representing the child's parent in a proceeding under this title;
- (4) an attorney representing the child;
- (5) a prosecuting attorney;
- (6) an individual or entity to whom the child is referred for treatment or services, including assistance in transitioning the child to the community after the child's release or discharge from a juvenile facility;
- (7) a public or private agency or institution providing supervision of the child by arrangement of the juvenile court, or having custody of the child under juvenile court order; or
- (8) with permission from the juvenile court, any other individual, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

(b-1) A person who is the subject of the records is entitled to access the records for the purpose of preparing and presenting a motion or application to seal the records.

...

(i) In addition to the authority to release information under Subsection (b)(6), a juvenile probation department may release information contained in its records without leave of the juvenile court pursuant to guidelines adopted by the juvenile board.

consists of records maintained by the department concerning a juvenile offender. We understand the requestor is not a person or entity authorized to access this information under section 58.007(b). Further, although the requestor is a person who is the subject of the records, we have no indication the requestor seeks the records for the purpose of sealing the records. *See* Fam. Code § 58.007(b-1). However, as a juvenile probation department, the department has the discretion to release the requested information pursuant to guidelines adopted by the juvenile board. *See id.* § 58.007(i). The probation department does not inform us it has adopted a rule governing the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption and based on our review of the submitted information, we conclude the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 58.007(b) 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/mo

Ref: ID# 798573

Enc. Submitted documents

c: Requestor
(w/o enclosures)