



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 5, 2019

Mr. Vito Chavana  
Assistant District Attorney  
Hidalgo County  
100 East Cano Street  
Edinburg, Texas 78539

OR2019-34301

Dear Mr. Chavana:

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# 800152 (2019-0165-DA.CO).

The County of Hidalgo (the "county") received two requests for information pertaining to the requestor's client, including all education and disciplinary records. You state you will release some information to the requestor. 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 representative sample of information.<sup>1</sup>

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 section 58.005 of the Family Code, which provides, in relevant part, the following:

- (a) This section applies only to the inspection, copying, and maintenance of a record concerning a child and to the storage of information from which a record could be generated, including personally identifiable information, information obtained for the purpose of diagnosis, examination, evaluation, or treatment of the child or for making a referral for treatment of the child, and other records or information, created by or in the possession of:

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<sup>1</sup> We assume 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 those records contain substantially different types of information than that submitted to this office.

- (1) the Texas Juvenile Justice Department;
- (2) an entity having custody of the child under a contract with the Texas Juvenile Justice Department; or
- (3) another public or private agency or institution having custody of the child under order of the juvenile court, including a facility operated by or under contract with a juvenile board or juvenile probation department.

(a-1) Except as provided by Article 15.27, Code of Criminal Procedure, the records and information to which this section applies may be disclosed only to:

- (1) the professional staff or consultants of the agency or institution;
- (2) the judge, probation officers, and professional staff or consultants of the juvenile court;
- (3) an attorney for the child;
- (4) a governmental agency if the disclosure is required or authorized by law;
- (5) 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;
- (6) the Texas Department of Criminal Justice and the Texas Juvenile Justice Department for the purpose of maintaining statistical records of recidivism and for diagnosis and classification;
- (7) a prosecuting attorney;
- (8) a parent, guardian, or custodian with whom a child will reside after the child's release or discharge from a juvenile facility;
- (9) a governmental agency or court if the record is necessary for an administrative or legal proceeding and the personally identifiable information about the child is redacted before the record is disclosed; or
- (10) 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.

Act of May 14, 2019, 86th Leg., R.S., H.B. 1760, § 1 (to be codified at Fam. Code § 58.005(a), (a-1)). Under section 58.005 of the Family Code, a “child” means a person who is ten years of age or older and under seventeen years of age at the time of the reported conduct. *See* Fam. Code § 51.02(2) (defining “child” for purposes of title 3 of Family Code). You inform us the information in Exhibit C pertains to a child who is a resident in the custody of the county. Further, you state the requestor is not a person or entity entitled to receive the information at issue under section 58.005(a-1). Accordingly, we conclude the information in Exhibit C is confidential under section 58.005 of the Family Code, and the county must withhold it under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also 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:

(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 a party in a proceeding under this title;
- (4) a person or entity to whom the child is referred for treatment or services, if the agency or institution disclosing the information has entered into a written confidentiality agreement with the person or entity regarding the protection of the disclosed information;
- (5) 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
- (6) with permission from the juvenile court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

...

(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.

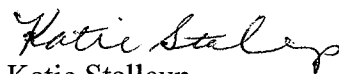
Act of May 14, 2019, 86th Leg., R.S., H.B. 1760, § 3 (to be codified at Fam. Code § 58.007(b), (i)). We note section 58.007, like section 58.005, applies to records concerning a person who is ten years of age or older and under seventeen years of age at the time of the reported conduct. *See id.* § 51.02(2). The county states the information in Exhibit B consists of records maintained by the Hidalgo County Juvenile Probation Department concerning a juvenile offender. We understand the information at issue relates to a juvenile who was a party to proceedings under the Juvenile Justice Code, title 3 of the Family Code. You state the requestor is not a person or entity authorized to access this information under section 58.007(b). Accordingly, we conclude the county must withhold the information in Exhibit B under section 552.101 of the Government Code in conjunction with section 58.007(b) of the Family Code.

In summary, the county must withhold the information in Exhibit C under section 552.101 of the Government Code in conjunction with section 58.005 of the Family Code. The county must withhold the information in Exhibit B 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,



Katie Stallcup  
Attorney  
Open Records Division

AKS/eb

Ref: ID# 800152

Enc. Submitted documents

c: Requestor  
(w/o enclosures)