



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 15, 2020

Ms. Christy Gilbert
Assistant County Attorney
Harris County Attorney's Office
1019 Congress Street, 15TH Floor
Houston, Texas 77002

OR2020-16075

Dear Ms. Gilbert:

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# 830991 (20PIA0187).

The Harris County Institute of Forensic Sciences (the "institute") received a request for a specified autopsy report. Although the institute takes no position regarding whether the submitted information is excepted from disclosure, the institute states its release may implicate the interests of the Bellaire Police Department (the "department"). Accordingly, the institute states it notified the department of the request and of its right to submit comments to this office as to why the information at issue should not be released.¹ *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released). We have 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."² *Id.*

¹ As of the date of this letter, we have not received comments from the department.

² The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

§ 552.101. Section 552.101 encompasses section 58.008 of the Family Code, which provides, in part:

(b) Except as provided by Subsection (c), 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” 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* Fam. Code § 51.02(2) (defining “child” for purposes of title 3 of Family Code).

We note the information at issue may involve a juvenile engaged in delinquent conduct or conduct indicating a need for supervision. However, we are unable to determine the age of the offender at issue. Accordingly, we must rule conditionally. If the offender at issue was ten years of age or older and under seventeen years of age at the time of the conduct at issue, then the institute must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code. If the offender was not ten years of age or older and under seventeen years of age at the time of the conduct, then the institute may not withhold the submitted information under section 552.101 on that basis. In that instance, the institute must release the submitted information.

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,

Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/mo

Ref: ID# 830991

Enc. Submitted documents

c: Requestor
(w/o enclosures)