



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 27, 1998

Mr. Mark E. Dempsey
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR98-0820

Dear Mr. Dempsey:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 113874.

The City of Garland (the "city") received a request for "a full and complete report of a CRIMINAL MISCHIEF report . . . including names and addresses and action taken of the three juveniles arrested . . . at 3:00 pm on 12-18-1997." In response to the request, you submitted to this office for review a copy of the records, which you assert are responsive. You state that the city has released some of the requested information to the requestor.¹ However, the city wishes to withhold the remaining information, which has been highlighted, from disclosure pursuant to section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

The Office of the Attorney General will raise section 552.101 on behalf of a governmental body when necessary to protect third-party interests. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987). Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Release of the requested information is governed by section 58.007 of the Family Code.

The Seventy-fifth Legislature passed House Bill 1550² which amends the Family Code and in part overrules Open Records Decision No. 644 (1996). In Open Records Decision No. 644 (1996), this office ruled that section 58.007 of the Family Code does not

¹We note that the city has already released the front page offense report information from all of the requested reports. See generally Gov't Code § 552.108(c); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976).

²Act of June 2, 1997, H.B. 1550, 75th Leg., R.S.

make confidential juvenile law enforcement records concerning juvenile conduct occurring on or after January 1, 1996 that are maintained by law enforcement agencies. Juvenile offender records held by law enforcement agencies are now expressly confidential under section 58.007(c) of the Family Code. However, section 58.007(c) only applies to juvenile law enforcement records concerning conduct that occurred on or after September 1, 1997. The relevant language of amended Family Code section 58.007(c) reads as follows:

(c) Except as provide by Subsection (d), law enforcement records and files concerning a child may not be disclosed to the public and shall be:

(1) kept separate from adult files and records; and

(2) maintained on a local basis only and not sent to a central, state or federal depository, except as provided by Subchapter B.

Open Records Decision No. 644 (1996) still applies to records concerning juvenile conduct that occurred from January 1, 1996 to August 31, 1997. Section 58.007(c) of the Family Code only applies to juvenile law enforcement records concerning juvenile conduct occurring on or after September 1, 1997 that are maintained by law enforcement agencies. Juvenile law enforcement records concerning conduct that occurred before January 1, 1996, are governed by former section 51.14(d) of the Family Code, which is continued in effect for that purpose. Act of June 2, 1997, H.B. 1550, 75th Leg., R.S.

Here, the requested information involves juvenile conduct that occurred after September 1, 1997. As none of the exceptions in section 58.007 applies, the requested information is confidential pursuant to section 58.007(c) of the Family Code. Thus, you must withhold the requested information under section 552.101 of the Government Code.

As section 58.007 of the Family Code is dispositive, we need not consider your section 552.108 claim. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

~~Yours very truly,~~

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad
Assistant Attorney General
Open Records Division

SH/rho

Ref: ID# 113874

Enclosures: Submitted documents

cc: Mr. Paul H. Buhler
613 Caravaca Drive
Garland, Texas 75043
(w/o enclosures)