OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

September 28, 1999

Lieutenant Arturo Valdez
McAllen Police Department
Central Record Division
1501 Pecan Boulevard
McAllen, Texas 78501

OR99-2736

Dear Lieutenant Valdez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129380.

The McAllen Police Department (the "department") received a request for incident report number 9929014. You assert that the information requested is excepted from required public disclosure by sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." We have previously found that section 58.007 of the Family Code does not make confidential juvenile law enforcement records concerning juvenile conduct occurring on or after January 1, 1996, that are maintained by law enforcement agencies. Open Records Decision No. 644 (1996). However, the Seventy-fifth Legislature passed House Bill 1550 which amends the Family Code and in part overrules Open Records Decision No. 644 (1996). Act of June 2, 1997, H.B. 1550, 75th Leg., R.S., ch. 1086, § 20, 1997 Tex. Gen. Laws 4179, 4187. Juvenile offender records held by law enforcement agencies are now expressly confidential under section 58.007(c) of the Family Code. Notwithstanding, 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 provided 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) continues to apply 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., ch. 1086, § 53, 1997 Tex. Gen. Laws 4179, 4199.

Here, the requested information involves juvenile conduct that occurred after September 1, 1997. It does not appear that any of the exceptions to section 58.007 apply. Thus, the records are made confidential by amended section 58.007 of the Family Code. Accordingly, you must withhold the requested information in its entirety under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

Because we are able to resolve this matter under section 58.007 of the Family Code, we do not address your additional arguments against disclosure. 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 questions about this ruling, please contact our office.

Sincerely,

Carla Gay Dickson

Carla Gay Dickson
Assistant Attorney General
Open Records Division

CGD/ljp

Ref: ID# 129380

Encl. Submitted documents

cc: Mr. Luis A. Cardosa
McAllen Hospital
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McAllen, Texas
(w/o enclosures)