



March 14, 2000

Mr. M. Shannon Kackley  
Assistant City Attorney  
City of Garland  
P.O. Box 469002  
Garland, Texas 75046-9002

OR2000-1007

Dear Mr. Kackley:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 134878.

The City of Garland (the "city") received a request for a copy of the arrest report for case number 2000R005314. The requestor additionally alleges the arrestee, a juvenile, "was detained for over 5 hours without alerting his parents." The requestor thus also requests "the proper procedure" for detaining juveniles. You have provided for our review the arrest report for case number 2000R005314. You assert this information, in its entirety, is excepted from public disclosure under section 552.101 of the Government Code. We have reviewed the submitted information and considered the exceptions you assert.

We note at the outset that you assert no exceptions nor make any arguments for withholding any of the information responsive to the request for the city's juvenile detention procedures, nor have you provided this office for our review the information that is responsive to the request for procedures. *See* Gov't Code § 552.301(e)(1)(A), (D). We thus find the information responsive to this request must be released. We remind the city that a governmental body must make a good faith effort to relate a request to information which it holds. Open Records Decision No. 561 at 8 (1990).

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 58.007(c) of the Family Code states:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from 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 Subchapter B.

This provision applies to juvenile law enforcement records concerning juvenile conduct occurring on or after September 1, 1997, that are maintained by law enforcement agencies. Here, the submitted 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 submitted information is made confidential by section 58.007 of the Family Code. Accordingly, we agree that you must withhold this information in its entirety under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

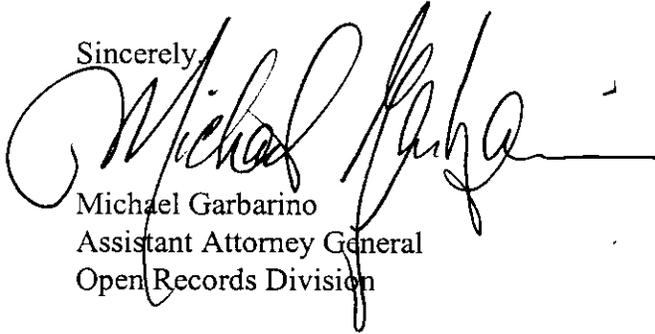
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the

statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Garbarino", written over a printed name and title.

Michael Garbarino  
Assistant Attorney General  
Open Records Division

MG/ch

Ref: ID# 134878

Encl. Submitted documents

cc: Ms. Cindy Burkett  
1024 Primrose Street  
Mesquite, Texas 75149  
(w/o enclosures)