



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 20, 2008

Mr. Mark Mann  
City of Garland  
P.O. Box 469002  
Garland, Texas 75046-9002

OR2008-06918

Dear Mr. Mann:

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# 310491.

The Garland Police Department (the "department") received a request for all police records pertaining to the requestor. You state that the department has released some of the requested information. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and 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." Gov't Code § 552.101. Section 552.101 encompasses information protected by other statutes, such as section 58.007 of the Family Code. The relevant language of section 58.007 reads as follows:

(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, D, and E.

...

(e) Law enforcement records and files concerning a child may be inspected or copied by a juvenile justice agency as that term is defined by Section 58.101, a criminal justice agency as that term is defined by Section 411.082, Government Code, the child, and the child's parent or guardian.

...

(j) Before a child or a child's parent or guardian may inspect or copy a record or file concerning the child under Subsection (e), the custodian of the record or file shall redact:

(1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child; and

(2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law.

Fam. Code § 58.007(c), (e), (j). Law enforcement records relating to juvenile conduct, whether delinquent conduct or conduct in need of supervision, that occurred on or after September 1, 1997 are confidential under section 58.007 of the Family Code. *See* Fam. Code § 51.03 (defining "delinquent conduct" and "conduct indicating a need for supervision" for purposes of title 3 of the Family Code). For purposes of section 58.007, "child" means a person who is ten years of age or older and under seventeen years of age. *See* Fam. Code § 51.02(2). We have reviewed cover sheet A and find the reports contained therein involve allegations of juveniles engaged in delinquent conduct. It does not appear that any of the exceptions in section 58.007 of the Family Code apply to these reports. Thus, offense report numbers 2003R000829, 2002R029987, and 2002010470 are subject to section 58.007(c), and must be withheld in their entirety under section 552.101.

We have also reviewed report number W39A0167, under cover sheet B, and agree it involves allegations of juveniles engaged in conduct indicating a need for supervision. Thus, this information is also subject to section 58.007. The requestor, however, is one of the juvenile

suspects involved. Therefore, the department cannot withhold report number W39A0167 from the requestor under section 58.007(c). *See id.* § 58.007(e). Report number W39A0167 contains information about juvenile suspects other than the requestor. We agree that some of the information you have marked in purple is identifying of these other juvenile suspects. However, the rest of the information you have marked in the report is not identifying information and may not be withheld under 58.007(j)(1). Thus, the department must withhold only the information we have marked under section 552.101 of the Government Code in conjunction with section 58.007(j)(1). *See id.* § 58.007(j)(1). The remainder of report number W39A0167 must be released to the requestor pursuant to section 58.007(e) of the Family Code.

Next, you assert that the information you have marked in red in report number 2003R012490, under cover sheet C, is excepted from disclosure under section 552.108(a)(2) of the Government Code. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. *See Gov't Code* § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state that report number 2003R012490 relates to an investigation by the department that has concluded in a final result other than a conviction or deferred adjudication. Based on this representation and our review, we agree that the department may withhold the information you have marked in red in report number 2003R012490 pursuant to section 552.108(a)(2) of the Government Code.

In summary, the department must withhold report numbers 2003R000829, 2002R029987, and 2002010470 in their entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. The information we have marked in report number W39A0167 must be withheld under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. The remaining information in report number W39A0167 must be released to the requestor pursuant to section 58.007(e) of the Family Code. The department may withhold the information marked in red in report number 2003R012490 under section 552.108(a)(2) of the Government Code.<sup>1</sup> The remaining information must be released to the requestor.

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

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<sup>1</sup>We note that you have the discretion to release all or part of the marked information that is not otherwise confidential by law. *Gov't Code* § 552.007.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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).

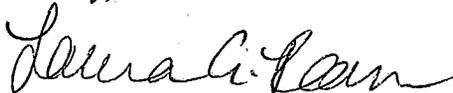
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 challenge that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

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,



Laura E. Ream  
Assistant Attorney General  
Open Records Division

LER/jb

Ref: ID# 310491

Enc. Submitted documents

c: Mr. John S. O'Brien  
210 West Avenue E  
Garland, Texas 75040  
(w/o enclosures)