



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 24, 2010

Mr. Mack Reinwand
Assistant City Attorney
Arlington Police Department
P.O. Box 1065
Arlington, Texas 76004-1065

OR2010-04192

Dear Mr. Reinwand:

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# 373683 (Police Dept. Reference No. 2010-01-003).

The Arlington Police Department (the "department") received a request for a specified police report. You claim that the submitted report is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public 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. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007 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). 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 Subchapters 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.

Id. § 58.007(c), (e), (j). We find the submitted report involves allegations of juvenile conduct in violation of penal statutes that occurred after September 1, 1997. Thus, this information is subject to section 58.007. We note, however, the requestor is the parent of the juvenile suspect named in the report. Therefore, information pertaining to the requestor's child may not be withheld from him under section 552.101 on the basis of section 58.007(c). *See id.* § 58.007(e). However, we note section 58.007(j) also provides that information subject to any other exception to disclosure under the Act or other law must be redacted. *See id.* § 58.007(j)(2). Therefore, we must consider whether any portion of the submitted report is excepted from required public disclosure under the Act or other law.

Section 552.101 of the Government Code also encompasses section 261.201 of the Family Code, which provides as follows:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for

purposes consistent with [the Family Code] and applicable federal or state law or under rules adopted by an investigating agency:

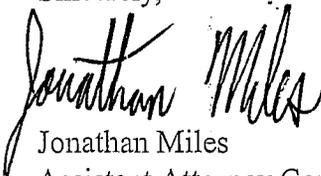
- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Id. § 261.201(a). In this instance, the submitted report relates to an investigation of alleged indecency with a child. *See id.* § 261.001(1)(E) (definition of “abuse” for purposes of Fam. Code ch. 261 includes indecency with a child under Penal Code section 21.11); *see also* Penal Code § 221.11 (defining “child” for purposes of section 21.11 as a minor younger than 17 years of age). Thus, we find the submitted report is within the scope of section 261.201(a). You do not indicate the department has adopted a rule governing the release of this type of information; therefore, we assume that no such regulation exists. Given that assumption, we find the submitted report is confidential pursuant to section 261.201 of the Family Code and the department must withhold it in its entirety under section 552.101 of the Government Code.¹

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 http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/cc

¹As our ruling is dispositive, we need not address your additional arguments against disclosure.

Ref: ID# 373683

Enc. Submitted documents

c: Requestor
(w/o enclosures)