



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 15, 2010

Mr. Mack Reinwand
Assistant City Attorney
Arlington Police Department
Mail Stop 04-0200
P. O. Box 1065
Arlington, Texas 76004-1065

OR2010-05366

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# 376616 (APD No. 2010-02-011).

The Arlington Police Department (the "department") received a request for a specified police report. You claim 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. This section encompasses information protected by other statutes, such as section 58.007(c) of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. *See Fam. Code* § 58.007(c). 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 id.* § 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 have reviewed the submitted police report and find it involves allegations of juvenile conduct in violation of penal statutes that occurred after September 1, 1997. Thus, this report is generally confidential under section 58.007(c). We note, however, that the requestor is a parent of the juvenile offender listed in the report. Pursuant to section 58.007(e), the department may not withhold the submitted law enforcement record from this requestor under section 58.007(c). *Id.* § 58.007(e). However, section 58.007(j)(2) states that information subject to any other exception to disclosure under the Act or other law must be redacted. *Id.* § 58.007(j)(2). We note the submitted

information is also subject to section 261.201 of the Family Code. Accordingly, we will address the applicability of this section to the submitted information.

Section 552.101 also encompasses section 261.201(a) 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 this 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). The submitted information consists of files, reports, records, communications, audiotapes, videotapes, or working papers used or developed in an investigation under chapter 261 of the Family Code. *See id.* § 261.001 (defining “abuse” and “neglect” for purposes of Fam. Code ch. 261); *see also id.* § 101.003(a) (defining “child” for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). Thus, this information is within the scope of section 261.201. 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 conclude the submitted information 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,

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

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,

A handwritten signature in black ink, appearing to read 'Matt Entsminger', with a stylized flourish at the end.

Matt Entsminger
Assistant Attorney General
Open Records Division

MRE/rl

Ref: ID# 376616

Enc. Submitted documents

c: Requestor
(w/o enclosures)