



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 16, 2010

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

OR2010-14083

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# 394287 (GCA# 10-0553).

The Garland Police Department (the "department") received a request for reports pertaining to a specified address during a specified period of time. You claim the submitted information 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 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. The relevant language of section 58.007(c) 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.

Fam. Code § 58.007(c). For purposes of section 58.007(c), “child” means a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). You argue the submitted incident reports are subject to section 58.007(c). Upon review, we find incident report number 2008R008859 involves allegations of juvenile conduct indicating a need for supervision that occurred after September 1, 1997. *See id.* § 51.03 (defining “conduct indicating a need for supervision” as “the voluntary absence of a child from the child’s home without the consent of the child’s parent or guardian for a substantial length of time or without intent to return”). It does not appear the requestor has a right of access to incident report number 2008R008859. Thus, we conclude incident report number 2008R008859 is confidential pursuant to section 58.007(c) of the Family Code, and the department must withhold it under section 552.101 of the Government Code. However, we find incident report number 2009R012099 does not list a juvenile as a suspect, offender, or defendant. Accordingly, incident report number 2009R012099 may not be withheld under section 552.101 in conjunction with section 58.007(c) of the Family Code.

In summary, the department must withhold incident report number 2008R008859 under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. Incident report number 2009R012099 must be released.

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,

A handwritten signature in black ink, appearing to read "Claire Morris Sloan". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/jb

Ref: ID# 394287

Enc. Submitted documents

c: Requestor
(w/o enclosures)