



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 11, 2012

Mr. Scott McDonald  
Counsel for Edinburg Consolidated Independent School District  
O'Hanlon, McCollom & Demerath  
808 West Avenue  
Austin, Texas 78701

OR2012-16271

Dear Mr. McDonald:

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# 467822.

The Edinburg Consolidated Independent School District (the "district"), which you represent, received a request for twenty-four categories of information pertaining to the requestor's client and his reassignment by the district. 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.

Initially, we note the requestor seeks twenty-four categories of information and you have only submitted a district police report and investigative materials from a specific incident. You did not submit for our review information responsive to the remaining requested categories of information. Thus, to the extent such information existed and was maintained by the district on the date district received the request for information, we presume the district has released it. If not, the district must do so at this time. *See* Gov't Code §§ 552.301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to the requested information, it must release the information as soon as possible).

Next, you state the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2012-04323

(2012). However, we note in that instance, the requestor had a potential right of access to portions of the requested information. Because the facts and circumstances here are not the same as in the previous ruling, we find the district may not rely on Open Records Letter No. 2012-04323 to withhold the submitted information. *See* Open Records Decision No. 673 (2001) (governmental body may rely on previous determination when elements of law, fact, and circumstances have not changed, decision concludes specific, clearly delineated category of information is excepted, and governmental body is explicitly informed it need not seek a decision from this office to withhold information in response to future requests). Accordingly, we will address your arguments against disclosure of 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 of the Family Code which provides in relevant part:

(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). Juvenile law enforcement records relating to delinquent conduct by a child that occurred on or after September 1, 1997 are confidential under section 58.007(c). *See id.* § 51.03(a) (defining “delinquent conduct”). For purposes of section 58.007(c), a “child” is a person who is ten years of age or older and under seventeen years of age at the time of the reported conduct. *See id.* § 51.02(2). You state the submitted information involves juveniles ten years of age or older and under seventeen years of age engaged in delinquent conduct. Based on your representation and our review, we agree the submitted information involves children allegedly engaged in delinquent conduct that occurred after September 1, 1997. You do not indicate, nor does it appear, any of the exceptions in section 58.007 apply to this information. Thus, the submitted information is confidential in

its entirety pursuant to section 58.007(c) of the Family Code, and the district must withhold it under section 552.101 of the Government Code.<sup>1</sup>

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](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 "Michelle R. Garza", with a long horizontal flourish extending to the right.

Michelle R. Garza  
Assistant Attorney General  
Open Records Division

MRG/som

Ref: ID# 467822

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure under section 552.101 of the Government Code.