



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 11, 2013

Ms. Michele Tapia  
Assistant City Attorney  
City of Carrollton  
1945 East Jackson Road  
Carrollton, Texas 75006

OR2013-15772

Dear Ms. Tapia:

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# 499012 (City ID No. 1087).

The Carrollton Police Department (the "department") received a request for information pertaining to ten named individuals. You indicate the department does not have responsive information pertaining to some of the named individuals.<sup>1</sup> 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. This exception encompasses information other statutes make confidential. You claim section 552.101 in conjunction with section 58.007 of the Family Code, which provides in part:

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<sup>1</sup>We note the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

(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.

Fam. Code § 58.007(c), (e). Juvenile law enforcement records relating to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997 are confidential under section 58.007(c). *See id.* § 51.03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision"). 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 have submitted a report involving one of the individuals named in the request. Upon review, we agree the report involves a child allegedly engaged in delinquent conduct that occurred after September 1, 1997. Therefore, the submitted information is confidential under section 58.007(c) of the Family Code.

In this instance, however, the requestor states she has been appointed by the Dallas County Family District Courts to complete a court-ordered social study regarding the individual to whom the submitted report pertains. Although the requestor provides a release authorization form signed by a parent of the individual, we note this individual had reached the age of eighteen prior to the date of the request for information. Accordingly, the requestor does not have a right of access to the submitted information as the authorized representative of the child's parent or guardian. *See id.* § 58.007(e). Nevertheless, section 58.007 of the Family Code also provides that "[l]aw enforcement records and files concerning a child may be inspected by a juvenile justice agency as that term is defined by Section 58.101 [of the

Family Code and] a criminal justice agency as that term is defined by Section 411.082, Government Code[.]” *Id.* Section 58.101(5) of the Family Code defines a “juvenile justice agency” as an agency that has custody or control over juvenile offenders. Section 411.082(3) of the Government Code defines a “criminal justice agency” as “a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and that allocates a substantial portion of its annual budget to the administration of criminal justice.” Gov’t Code § 411.082(3)(A). You do not indicate, and we are not otherwise able to determine, whether the requestor seeks access to the information subject to section 58.007 of the Family Code on behalf of a juvenile justice agency or a criminal justice agency for purposes of section 58.007(e) of the Family Code. Therefore, if the department is able to determine that the requestor represents a juvenile justice agency or a criminal justice agency, as provided by section 58.007(e) of the Family Code, then the requestor has a right of access to the submitted information under section 58.007(e) and the submitted information must be released to her.<sup>2</sup> Otherwise, the requestor has no right of access, and the department must withhold the submitted information from the requestor under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Michelle R. Garza  
Assistant Attorney General  
Open Records Division

MRG/som

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<sup>2</sup>In that event, because this requestor has a special right of access to the information being released, if the department receives another request for this information from an individual other than this requestor, the department must again seek a decision from this office.

Ref: ID# 499012

Enc. Submitted documents

c: Requestor  
(w/o enclosures)