

January 7, 1999



OFFICE OF THE
ATTORNEY GENERAL
STATE OF TEXAS

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Mr. John M. Knight
Assistant Police Legal Advisor
City of Arlington Police Department
620 W. Division Street
Arlington, Texas 76004-1065

OR99-0023

Dear Mr. Knight:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 121124.

The Arlington Police Department (the "department") received a request for a specific offense report. You claim that the requested offense report 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 documents.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." The Seventy-fifth Legislature passed House Bill 1550¹ which amends the Family Code and in part alters the result in Open Records Decision No. 644 (1996). Open Records Decision No. 644 (1996) holds that section 58.007 of the Family Code does not make confidential juvenile law enforcement records concerning juvenile conduct occurring on or after January 1, 1996 that are maintained by law enforcement agencies. Juvenile offender records held by law enforcement agencies are now expressly confidential under section 58.007(c) of the Family Code. However, section 58.007(c) only applies to juvenile law enforcement records concerning conduct that occurred on or after September 1, 1997. The relevant language of amended Family Code section 58.007(c) reads as follows:

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¹Act of June 2, 1997, H.B. 1550, 75th Leg., R.S., ch. 1086, § 20, 1997 Tex. Gen. Laws 4179, 4187.

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child may not be disclosed to the public and shall be:

(1) kept separate from adult files and records; and

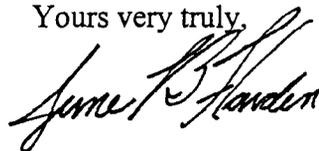
(2) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

Open Records Decision No. 644 (1996) still applies to records concerning juvenile conduct that occurred from January 1, 1996 to August 31, 1997. Section 58.007(c) of the Family Code only applies to juvenile law enforcement records concerning juvenile conduct occurring on or after September 1, 1997 that are maintained by law enforcement agencies. Juvenile law enforcement records concerning conduct that occurred before January 1, 1996, are governed by former section 51.14(d) of the Family Code, which is continued in effect for that purpose. Act of June 2, 1997, H.B. 1550, 75th Leg., R.S., ch. 1086, § 53, 1997 Tex. Gen. Laws 4179, 4199.

Here, the requested information involves juvenile conduct that occurred after September 1, 1997. As none of the exceptions in section 58.007 appear to apply, the requested information is confidential pursuant to section 58.007(c) of the Family Code. Thus, you must withhold the offense report under section 552.101 of the Government Code.

Because we are able to make a determination under section 552.101, we need not address your section 552.108 claim. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref: ID# 121124

Enclosures: Submitted documents

cc: Ms. Donna Sibley
522 Sea Rim Drive
Arlington, Texas 76018
(w/o enclosures)