



November 3, 1999

Ms. Lillian Guillen Graham
Assistant City Attorney
City of Mesquite
Box 850137
Mesquite, Texas 78185-0137

OR99-3105

Dear Ms. Graham:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130334.

The City of Mesquite (the "city") received a request for various law enforcement records relating to a juvenile. You assert that the information requested is excepted from required public disclosure by section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." We have previously found 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. Open Records Decision No. 644 (1996). However, the Seventy-fifth Legislature passed House Bill 1550 which amends the Family Code and in part overrules Open Records Decision No. 644 (1996). Act of June 2, 1997, H.B. 1550, 75th Leg., R.S., ch. 1086, § 20, 1997 Tex. Gen. Laws 4179, 4187. Juvenile offender records held by law enforcement agencies are now expressly confidential under section 58.007(c) of the Family Code. Notwithstanding, 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 section 58.007(c), as amended by the Seventy-sixth

Legislature,¹ 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 Subchapter B.

Open Records Decision No. 644 (1996) continues to apply 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. It does not appear that any of the exceptions to section 58.007 apply. Thus, the records are made confidential by amended section 58.007 of the Family Code. Accordingly, you must withhold the requested information in its entirety under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

You additionally inquire whether the requestor, a parent of the subject juvenile, has a special right of access to the information under section 552.023 of the Government Code. The relevant language of section 552.023 of the Government Code reads as follows:

(a) A person or person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person

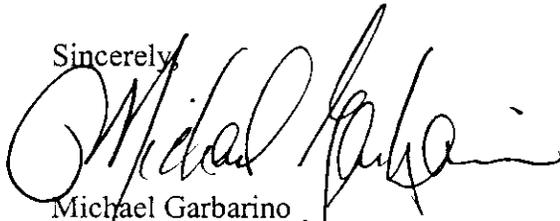
¹Act of May 26, 1999, 76th Leg., R.S., ch. 815, §1, 1999 Tex. Sess. Law Serv. 3448 (Vernon) (to be codified as an amendment to Fam. Code § 58.007).

and is protected from public disclosure by laws intended to protect that person's privacy interests.

As the requestor in the present case is neither the subject juvenile nor does the information you have provided indicate the requestor to be an authorized representative of the subject juvenile, we find section 552.023 of the Government Code to be inapplicable. Moreover, the information at issue is governed by section 58.007 of the Family Code. The access provisions of section 58.007 do not provide for release of the information to the requestor.

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 upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Garbarino". The signature is fluid and cursive, written over the typed name and title.

Michael Garbarino
Assistant Attorney General
Open Records Division

MG/jc

Ref: ID# 130334

Encl. Submitted documents

cc: Ms. Deborah Ann Gurley
11805 Asher Lane
Balch Springs, Texas 75180
(w/o enclosures)