



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 6, 2012

Ms. Tiffany Bull  
Assistant City Attorney  
Arlington Police Department  
Mail Stop 04-0200  
P.O. Box 1065  
Arlington, Texas 76004-1065

OR2012-01830

Dear Ms. Bull:

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# 444492 (Arlington Police Ref. No. 5928).

The Arlington Police Department (the "department") received a request for a police report pertaining to a specified incident. 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 public 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, including section 58.007 of the Family Code. The relevant language of section 58.007 provides:

(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.

...

(j) Before a child or a child's parent or guardian may inspect or copy a record or file concerning the child under Subsection (e), the custodian of the record or file shall redact:

(1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child; and

(2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law.

Fam. Code § 58.007(c), (e), (j). 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 (defining "delinquent conduct" and "conduct indicating a need for supervision"). 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 state the submitted information involves allegations of juvenile conduct that occurred after September 1, 1997. Accordingly, the submitted information is subject to section 58.007(c) of the Family Code. We note, however, the requestor is one of the juvenile offenders. Therefore, pursuant to section 58.007(e), the requestor has a right to inspect juvenile law enforcement records concerning himself. *See id.* § 58.007(e). However, any personally identifiable information concerning other juvenile suspects, offenders, victims, or witnesses must be redacted. *See id.* § 58.007(j)(1). Accordingly, the department must withhold the identifying information of the other juvenile offender, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. Further, information subject to any other exception under the Act or other law must be redacted. *See id.* § 58.007(j)(2). Therefore, we will consider your remaining arguments.

You contend the submitted information should only be available for inspection in accordance with article 45.0217 of the Texas Code of Criminal Procedure. Section 552.101 also encompasses article 45.0217 of the Code of Criminal Procedure. Article 45.0217 provides:

(a) Except as provided by Article 15.27 and Subsection (b), all records and files, including those held by law enforcement, and information stored by electronic means or otherwise, from which a record or file could be generated, relating to a child who is convicted of and has satisfied the judgment for a fine-only misdemeanor offense other than a traffic offense are confidential and may not be disclosed to the public.

(b) Information subject to Subsection (a) may be open to inspection only by:

...

(5) the child defendant[.]

Crim. Proc. Code art. 45.0217(a), (b)(5). Article 45.0217 applies to records and files of a child who is convicted of and satisfies the judgment for a fine-only misdemeanor offense other than a traffic offense. *See* Fam. Code § 51.02(2) (defining “child” as person ten years of age or older and under seventeen years of age at the time of the commission of the crime). The records at issue pertain to a Class C misdemeanor, which is punishable by a fine only. *See* Penal Code §§ 42.01(a)(6), (d) (offense under section 42.01 is Class C misdemeanor), 12.23 (Class C misdemeanor punishable by fine not to exceed \$500). However, you have submitted orders from the court demonstrating the cases for the children at issue were dismissed because the children successfully completed the terms of their deferred dispositions. Accordingly, we find the information at issue does not pertain to an offense for which a child was convicted. Thus, we find article 45.0217 of the Code of Criminal Procedure is not applicable to the submitted information.

In summary, the department must withhold the identifying information of the other juvenile offender, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. The remaining information must be released.<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

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<sup>1</sup>We note the requestor has a special right of access to the information being released. Because such information is confidential with respect to the general public, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.

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". The signature is fluid and cursive, with the first name being the most prominent.

Michelle R. Garza  
Assistant Attorney General  
Open Records Division

MRG/em

Ref: ID# 444492

Enc. Submitted documents

c: Requestor  
(w/o enclosures)