



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 4, 2015

Ms. Sarah R. Martin
Assistant City Attorney
Arlington Police Department
Post Office Box 1065
Arlington, Texas 76004-1065

OR2015-08622

Dear Ms. Martin:

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# 562090 (Arlington PD Reference No. 19566).

The City of Arlington (the "city") received a request for all 9-1-1 calls to specified addresses during a specified period of time. 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 section encompasses information protected by other statutes, such as section 58.007 of the Family Code, which provides, in pertinent 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.

...

(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:

...

(2) any information that is excepted from required disclosure under [the Act], or other law.

Fam. Code § 58.007(c), (e), (j)(2). 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 when the conduct occurred. *See id.* § 51.02(2). You state the submitted information is confidential under section 58.007. We note a portion of the information you seek to withhold involves a seventeen-year-old suspect. *See id.* § 51.02(2). Because the legislature has chosen to protect only the law enforcement records of a child who is between the ages of ten and sixteen at the time of the reported conduct, we find this information is not confidential under section 58.007(c). *See Open Records Decision No. 478 at 2 (1987)* (language of confidentiality statute controls scope of protection). Thus, as you have not established this information is confidential under

section 58.007 of the Family Code, the city may not withhold it under section 552.101 on that ground.

However, we conclude the information we have marked consists of law enforcement records involving juvenile delinquent conduct or conduct indicating a need for supervision occurring after September 1, 1997, and is, therefore, subject to section 58.007(c). *See id.* § 51.03(a) (defining “delinquent conduct” for purposes of section 58.007). In this instance, however, the requestor is a representative of the foster agency with which the juvenile at issue was placed. Section 58.007(e) allows a child’s guardian access to the child’s law enforcement records. *Id.* § 58.007(e). Section 51.02(4) of the Family Code defines a guardian as “the person, who, under court order, is the guardian of the person of the child or public or private agency with whom the child has been placed by the court.” *Id.* § 51.02(4). We understand foster children are generally under the conservatorship of the Texas Department of Family and Protective Services (“DFPS”), and the courts may order certain parties, such as foster parents, to provide certain care and to have certain responsibilities. *See, e.g., id.* §§ 161.207-.208, 263.001, 264.122, 266.001, 266.004. The requestor’s rights as a guardian of the foster child at issue are to be determined by order of the court and as approved by DFPS. Accordingly, if the city determines the requestor is not the guardian of the foster child at issue for purposes of section 58.007, then the information we have marked is confidential under section 58.007(c), and the city must withhold the information we have marked in its entirety under section 552.101 of the Government Code. If the city determines the requestor is the guardian of the foster child for purposes of section 58.007, then the requestor has a right to inspect information under section 58.007(e), and the city must release this information to the requestor under section 552.101 in conjunction with subsection 58.007(c).¹ *Id.* § 58.007(e).

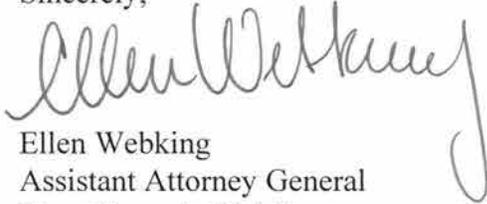
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

¹We note the requestor may have a special right of access to the information being released. *See* Fam Code § 58.007(e); Gov’t Code § 552.023(a) (person or person’s authorized representative has special right of access to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect person’s privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy for theories not implicated when individual requests information concerning herself). Accordingly, if the city receives another request for this information from an individual other than this requestor, the city must again seek a ruling from this office.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ellen Webking". The signature is written in dark ink and is positioned above the typed name.

Ellen Webking
Assistant Attorney General
Open Records Division

EW/akg

Ref: ID# 562090

Enc. Submitted documents

c: Requestor
(w/o enclosures)