



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 11, 2016

Ms. Lisa D. Mares
Counsel for City of McKinney
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2016-05701

Dear Ms. Mares:

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# 601410 (McKinney ORR# 15-18030).

The McKinney Police Department (the "department"), which you represent, received a request for arrest reports, police reports, and calls for service pertaining to a specified address and three named individuals during a specified time period. You state you have released some information. You claim a portion of 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. Section 552.101 encompasses information protected by other statutes, such as section 58.007 of the Family Code, which protects juvenile law enforcement records related to delinquent conduct and conduct indicating a need for supervision that occurred on or after September 1, 1997. *See* Fam. Code § 58.007. Section 58.007 provides, in relevant 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.

Id. § 58.007(c). Section 58.007(c) is applicable to records of juvenile delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. *See id.* § 51.03(a)-(b) (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of section 58.007). 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 at the time of the reported conduct. *See id.* § 51.02(2). Upon review, we agree the submitted information involves delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. However, we are unable to determine the age of the offender at issue. Therefore, we must rule conditionally. If the offender was ten years of age or older and under seventeen years of age at the time of the conduct at issue, then the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.¹ However, if the offender was not ten years of age or older or under seventeen years of age at the time of the conduct, then the department may not withhold the submitted information under section 552.101 of the Government Code on that ground. In that situation, as you raise no further exceptions to disclosure, the department must release the submitted information.

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/>

¹We note, because the information at issue does not contain criminal history record information (“CHRI”) for any of the individuals named in the request, we do not address whether the requestor, who is an investigator for the Texas Department of Family and Protective Services, has a right of access to CHRI under section 411.114 of the Government Code. *See Gov’t Code* § 411.114(4)(B).

[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,

A handwritten signature in black ink, appearing to read "Matthew Taylor", with a horizontal line extending to the right.

Matthew Taylor
Assistant Attorney General
Open Records Division

MT/dls

Ref: ID# 601410

Enc. Submitted documents

c: Requestor
(w/o enclosures)