



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 7, 2017

Mr. Mark E. Dempsey  
Assistant City Attorney  
City of Garland  
P.O. Box 469002  
Garland, Texas 75046-9002

OR2017-25434

Dear Mr. Dempsey:

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# 689373 (City ID# GCA17-0644).

The Garland Police Department (the "department") received a request for information pertaining to a specified incident. You claim some of the submitted information is exempted 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 exempts 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 section 58.008 of the Family Code, which provides, in part:

(b) Except as provided by Subsection (d), law enforcement records concerning a child and information concerning a child that are stored by electronic means or otherwise from which a record could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult records;

(2) if maintained electronically in the same computer system as adult records, accessible only under controls that are separate and distinct from the 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 Subsection (c) or Subchapter B, D, or E.

...

(d) Law enforcement records concerning a child may be inspected or copied by:

(1) a juvenile justice agency, as defined by Section 58.101;

(2) a criminal justice agency, as defined by Section 411.082, Government Code;

(3) the child; or

(4) the child's parent or guardian.

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

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

Act of May 28, 2017, 85th Leg., ch. 746 § 13, 2017 Tex. Sess. Law Serv. 3173, 3176-77 (Vernon) (to be codified at Fam. Code § 58.008(b), (d), (e)(1); *see* Fam. Code § 51.03(a) (defining "delinquent conduct" for purposes of title 3 of Family Code); Act of May 19, 2017, 85th Leg., R.S., ch. 324 § 7.002, Tex. Sess. Law Serv. 841, 848 (Vernon) (to be codified as amendments to Fam. Code § 51.03(b)); Act of May 30, 2017, 85th Leg., R.S., ch. 685 § 21, 2017 Tex. Sess. Law Serv. 3044, 3057 (Vernon) (to be codified as amendments to Fam. Code § 51.03(b)) (defining "conduct indicating a need for supervision"). Section 58.008(b) is applicable to records of juvenile conduct that occurred before, on, or after September 1, 2017. *See* Act of May 28, 2017, 85th Leg., R.S., ch. 746 § 13, 2017 Tex. Sess. Law Serv. 3176-77. The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See* Fam. Code § 51.02(2) (defining "child" for purposes of title 3 of Family Code). We understand you to assert some of the submitted information is subject to section 58.008.<sup>1</sup> Upon review, we agree the submitted information involves juvenile offenders, so as to fall within the scope of section 58.008(b). You note, and we

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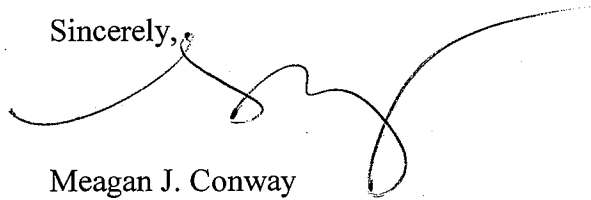
<sup>1</sup>Although you raise section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code, we note the 85th Legislature repealed this provision effective September 1, 2017. Act of May 28, 2017, 85th Leg., R.S., ch. 746 § 21, 2017 Tex. Sess. Law Serv. 3173, 3187.

agree, the requestor is one of the juvenile offenders at issue, and she is now an adult. As such, the requestor has a right to inspect juvenile law enforcement records concerning herself pursuant to section 58.008(d) of the Family Code. *See* Act of May 28, 2017, 85th Leg., R.S., ch. 746 § 13, 2017 Tex. Sess. Law Serv. 3177 (to be codified at Fam. Code § 58.008(d)). Section 58.008(e)(1) provides any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the requestor must be redacted. *See* Act of May 28, 2017, 85th Leg., R.S., ch. 746 § 13, 2017 Tex. Sess. Law Serv. 3177 (to be codified at Fam. Code § 58.008(e)(1)). In this instance, we are unable to determine the ages of the remaining arrestees in the information at issue. Thus, we must rule conditionally. If the arrestees were ten years of age or older and under seventeen years of age at the time of the reported conduct, the department must withhold the arrestees' identifying information, which you marked, under section 552.101 of the Government Code in conjunction with section 58.008(e)(1) of the Family Code. However, if the arrestees at issue were not ten years of age or older and under seventeen years of age at the time of the reported conduct, the department may not withhold the marked information under section 552.101 in conjunction with section 58.008(e)(1). The department must release the remaining information.<sup>2</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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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 providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Meagan J. Conway  
Assistant Attorney General  
Open Records Division

MC/sb

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<sup>2</sup>The requestor has a right of access to the information at issue. Act of May 28, 2017, 85th Leg., R.S., ch. 746 § 13, 2017 Tex. Sess. Law Serv. 3177 (to be codified at Fam. Code § 58.008(d)). If the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.

Ref: ID# 689373

Enc. Submitted documents

c: Requestor  
(w/o enclosures)