OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

September 17, 2002

Mr. Kuruvilla Oommen
Assistant City Attorney
City of Houston - Legal Department
P.O. Box 1562
Houston, Texas 77251-1562

OR2002-5215

Dear Mr. Oommen:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 168710.

The Houston Police Department (the "department") received a request for a specific incident report. You claim that the requested report is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. We have considered the exception you claim and have reviewed the information at issue.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses confidentiality provisions like section 58.007 of the Family Code. Pursuant to section 58.007, juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential. However, section 58.007 is inapplicable when an incident does not involve a suspect or offender who is a "child" as defined by section 51.02 of the Family Code. A "child" is a person who is:

> (A) ten years of age or older and under 17 years of age; or
>
> (B) seventeen years of age or older and under 18 years of age who is alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision as a result of acts committed before becoming 17 years of age.

Fam. Code § 51.02(1). Here, the juvenile was only three years old at the time of the reported conduct. Since the suspect was not a "child" for purposes of the statute, we conclude that section 58.007 of the Family Code is inapplicable to the submitted report.

We note, however, that the submitted report contains a driver's licence number that may be excepted from disclosure under section 552.130. Section 552.130 provides in relevant part:

> (a) Information is excepted from the requirement of Section 552.021 if the information relates to:
>
> > (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
> >
> > (2) a motor vehicle title or registration issued by an agency of this state[.]

By its terms, section 552.130 excepts from disclosure only motor vehicle information issued by the State of Texas. We are unable to discern whether the drivers' license numbers contained in the submitted report were issued by the State of Texas. Therefore, you must determine whether the marked driver's license number was issued by this state and, therefore, excepted from disclosure under section 552.130. Since section 552.130 is intended to protect an individual's privacy interests, the requestor has a special right of access to his driver's license number. *See* Gov't Code § 552.023 (person has special right of access to information that would otherwise be withheld to protect that person's privacy).

In summary, if the marked driver's license number was issued by the State of Texas, it must be withheld under section 552.130. The remaining information, however, must be released.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records

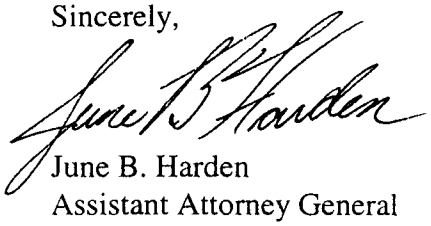
will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/sdk

Ref: ID# 168710

Enc: Submitted documents

c: Mr. Faramouz Golchin
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(w/o enclosures)