



October 29, 2002

Mr. Robert R. Ray
Assistant City Attorney
City of Longview Texas
P. O. Box 1952
Longview, Texas 75606-1952

OR2002-6132

Dear Mr. Ray:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 171363.

The City of Longview (the "city") received a written request for all records held by the city concerning the requestor's minor children. The records at issue consist of juvenile law-enforcement records and an EMS record. You inquire whether the requestor has a special right of access to these records, or whether the records must be withheld pursuant to section 58.007 of the Family Code and section 773.091 of the Health and Safety Code, respectively.

Section 58.007(c) of the Family Code provides in pertinent part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child may not be disclosed to the public and shall be:

- (1) kept separate from adult files and records; and
- (2) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

Fam. Code § 58.007(c). Subsection 58.007(d) authorizes the release of certain juvenile law-enforcement records to the Texas Youth Commission and the Texas Department of Criminal Justice, and thus is inapplicable here. *See also* Fam. Code § 58.007(e) (authorizing release of juvenile law-enforcement records to other juvenile justice agency or criminal justice agency). Section 58.007(c) does not grant the law-enforcement officials controlling juvenile

records discretion as to who else may see them. This is in contrast to section 58.007(b), which allows “with leave of the juvenile court” inspection of juvenile court records by any person “with a legitimate interest.” *See* Fam. Code § 58.007(b). Because section 58.007 does not authorize the release of the juvenile law-enforcement records in this instance, we conclude that the city must withhold these records in their entirety. *See* Open Records Decision No. 181 (1977).

The release of EMS records is governed by chapter 773 of the Health and Safety Code. Section 773.091(b) of the Health and Safety Code provides as follows:

(b) Records of the identity, evaluation, or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that are created by the emergency medical services personnel or physician or maintained by an emergency medical services provider are confidential and privileged and may not be disclosed except as provided by this chapter.

However, confidential EMS records may be released to “any person who bears a written consent of the patient or other persons authorized to act on the patient’s behalf.” Health & Safety Code § 773.092(e)(4). Among the persons authorized to grant consent to release is “a parent or legal guardian if the patient is a minor.” Health & Safety Code § 773.093(a). As noted above, in this instance the requestor is the parent of the minor EMS patient. Consequently, if the city receives a consent to release from the requestor that specifies 1) the information or records to be covered by the release, 2) the reasons or purpose of the release, and 3) the person to whom the information is to be released, the city must release the EMS record in accordance with section 773.093 of the Health and Safety Code. Otherwise, the city must withhold the EMS records except for that information made public under section 773.093(g).

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,



David R. Saldivar
Assistant Attorney General
Open Records Division

DRS/RWP/lmt

Ref: ID# 171363

Enc: Submitted documents

c: Ms. Paula V. Chandler
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(w/o enclosures)