



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

February 27, 2003

Ms. Dana W. Cooley
Attorney at Law
P.O. Box 1006
Snyder, Texas 79550

OR2003-1270

Dear Ms. Cooley:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 177293.

The City of Snyder (the "City"), which you represent, received a request for a "copy of everything" concerning an assault by a named individual. You assert some of the requested information is excepted from disclosure under section 552.101 of the Government Code and you contend the remainder of the submitted information is not subject to the Public Information Act (the "Act") under section 552.003 of the Government Code. We have reviewed the information you submitted and we have considered your arguments.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses confidentiality provisions such as Family Code section 58.007. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. The relevant language of section 58.007(c) reads as follows:

(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 Subchapter B.

The information in Exhibit B pertains to juvenile conduct that occurred after September 1, 1997. Based on a review of the submitted documents, we find no indications that any of the exceptions in section 58.007 apply. Therefore, section 58.007(c) of the Family Code makes the contents of Exhibit B confidential. Thus, the City must withhold Exhibit B from the requestor under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

Next, the Act applies to information that is “collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a governmental body.” Gov’t Code § 552.002(a)(1). However, a “governmental body” under the Act “does not include the judiciary.” Gov’t Code § 552.003(1)(B). Information “collected, assembled or maintained by . . . the judiciary” is “governed by rules adopted by the Supreme Court of Texas or by other applicable laws and rules,” not the Act. Gov’t Code § 552.0035(a); *see also* Tex. R. Jud. Admin. You state the Snyder Municipal Court (the “Municipal Court”) generated and currently maintains the records identified as Exhibits C through H. Therefore, we conclude Exhibits C through H are not subject to the Act. Attorney General Opinion DM-166 (1992). Thus, the City has no obligation under the Act to provide these Municipal Court documents to the requestor.

However, we note that other sources of law may make such records public. Attorney General Opinions DM-166 at 2-3 (1992)(public has general right to inspect and copy judicial records), H-826 (1976); Open Records Decision No. 25 (1974); *see Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992) (documents filed with courts are generally considered public and must be released). Additionally, statutory law governing municipal courts may subject these records to disclosure. *See* Gov’t Code § 29.007(d)(4) (complaints filed with municipal court clerk); *id.* § 29.007(f) (municipal court clerks shall perform duties prescribed by law for county court clerk); Local Gov’t Code § 191.006 (records belonging to office of county clerk shall be open to public unless access restricted by law or court order); Fam. Code § 58.007(a)(2) (confidentiality of juvenile records under section 58.007 does not apply to those maintained by a municipal court).

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).

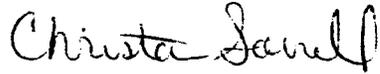
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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,

A handwritten signature in cursive script that reads "Christen Sorrell".

Christen Sorrell
Assistant Attorney General
Open Records Division

CHS/seg

Ref: ID# 177293

Enc: Submitted documents

c: Ms. Ava Russell
P.O. Box 401
Snyder, Texas 79549
(w/o enclosures)