



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 7, 2003

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

OR2003-8038

Dear Mr. Mann:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 190805.

The Garland Police Department (the "department") received a request for the police records and telephone interview of two named individuals. You advise that you have released some of the requested information as an intergovernmental transfer of information. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.

We note that the present request was made by a representative of the Dallas County Family Court Services. This office has determined that information may generally be transferred between governmental bodies that are subject to the Act without waiving exceptions to the disclosure of that information or affecting its confidentiality. *See* Attorney General Opinion JM-590 (1986); *see also* Open Records Decision Nos. 655 (1997), 567 (1990), 561 (1990), 516 (1989). These decisions are based on the well-settled policy of this state that governmental agencies should cooperate with each other in the interest of the efficient and economical administration of their statutory duties. *See* Open Records Decision No. 516 (1989). However, although information may generally be transferred between governmental bodies without violating its confidential character, the transfer of confidential information from one governmental body to another is prohibited where the relevant confidentiality statute authorizes release of the confidential information only to specific entities, and the requesting governmental body is not among the statute's enumerated entities. *See* Attorney

General Opinions DM-353 at 4 n. 6 (1995) (intergovernmental transfer permitted under statutory confidentiality provision only where disclosure to another governmental agency is required or authorized by law), JM-590 at 4-5 (1986) (when governmental body not included among expressly enumerated entities to which confidential information may be disclosed, information may not be transferred to that governmental body); *see also* Open Records Decision Nos. 655 (1997), 650 (1996) (transfer of confidential information to federal agency impermissible unless federal law requires its transfer).

You claim that the submitted information is excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.<sup>1</sup> 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.

Most of the submitted documents reflect on their face juvenile conduct that occurred after September 1, 1997. Based on the request for information, it does not appear that any of the exceptions to confidentiality in section 58.007 apply to this information. *See* Fam. Code §§ 58.007(d)-(i). Therefore, this information is confidential pursuant to section 58.007(c) of the Family Code. We conclude that it must be withheld from disclosure under section 552.101 of the Government Code. However, the remaining information, which we have marked, does not identify any juvenile engaged in delinquent conduct or conduct indicating a need for supervision. *See, e.g.*, Fam. Code § 51.02(2) (defining “child” for purposes of title 3 of Family Code as individual at least 10 years old and less than 17 years of age). Therefore, the remaining information is not made confidential by section 58.007.

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<sup>1</sup> Section 552.101 of the Government Code excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. *See* Gov’t Code § 552.101. Section 552.101 encompasses information that is protected from disclosure by other statutes.

In relation to the remaining information, we note that where an individual's criminal history information has been compiled by a governmental entity, the compiled information takes on a character that implicates the individual's right to privacy in a manner that the same information in an uncompiled state does not. *See United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989); *see also* Open Records Decision No. 616 at 2-3 (1993). However, section 552.023 states that a person or a person's authorized representative has a special right of access to information that relates to the person and that is protected from disclosure by laws intended to protect the person's privacy interests. *See* Gov't Code § 552.023. In this instance, the individual whose information is at issue has authorized the Dallas County Family Court Services to receive the requested information. Accordingly, the department must release the information we have marked to the requestor.<sup>2</sup>

In summary, you must release the information that we have marked to the requestor. The remaining submitted information must be withheld under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

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

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<sup>2</sup> Likewise, pursuant to section 552.023, the requestor has a special right of access to any social security information pertaining to this individual that would otherwise be confidential and is contained in the documents to be released. Because the information that the department must release is confidential with respect to the general public, the department should again seek a decision from this office if it receives a future request for this information from an individual other than the one to whom it pertains, or his authorized representative.

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,



Kristen Bates  
Assistant Attorney General  
Open Records Division

KAB/lmt

Ref: ID# 190805

Enc. Submitted documents

c: Ms. Caroline Roberts-Daley  
Dallas County Family Court Services  
600 Commerce Street, Suite 7-716  
Dallas, Texas 75202  
(w/o enclosures)