



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 18, 2005

Ms. Debbie L. Lockledge
Assistant to the County Judge
Brazos County
300 East 26th Street, Suite 114
Bryan, Texas 77803

OR2005-03320

Dear Ms. Lockledge:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 222237.

Brazos County (the "county") received a request for seven categories of information relating to the Brazos County Juvenile Services Department and Juvenile Detention Center, including copies of all Brazos County Sheriff's Office incident reports relevant to the Brazos County Juvenile Services Department and Juvenile Detention Center for a specified time period. We note that you have not submitted information responsive to categories one, two, four, five, six, and seven of the request. Therefore, we assume that information has been released to the extent it exists. *See* Gov't Code §§ 552.301, .302. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.²

¹Some of the submitted information is not responsive to the instant request. This ruling only addresses information responsive to the request at hand. *See generally* Gov't Code §§ 552.002, .021, .227, .351.

²We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision,” and 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.

Some of the information at issue involves juvenile conduct that occurred after September 1, 1997. It does not appear that any of the exceptions in section 58.007 apply; therefore, the information that we have marked is confidential pursuant to section 58.007(c) of the Family Code. You must withhold the marked information from disclosure under section 552.101 of the Government Code. However, one of the submitted incident reports does not consist of juvenile conduct but instead involves a juvenile complaining of the behavior of an adult.³ As such, section 58.007 is inapplicable to incident report number 04-10146 and it may not be withheld on that basis.

You also claim that incident report number 04-10146 is confidential under section 552.101 in conjunction with section 58.005 of the Family Code. Section 58.005 provides that

³The Family Code defines a “child” as 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.

“[i]nformation obtained for the purpose of diagnosis, examination, evaluation, or treatment or for making a referral for treatment of a child by a public or private agency or institution providing supervision of a child by arrangement of the juvenile court or having custody of the child under order of the juvenile court may be disclosed only to [certain listed individuals].” Fam. Code § 58.005(a). You do not inform us, and the submitted information at issue does not itself reflect, that any of this information was “obtained for the purpose of diagnosis, examination, evaluation, or treatment or for making a referral for treatment of a child.” *Id.* We therefore conclude that none of this information at issue is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 58.005 of the Family Code.

Some of the information in incident report number 04-10146 may be excepted under other provisions of law.⁴ Section 552.1175 of the Government Code provides in part:

(a) This section applies only to:

- (1) peace officers as defined by Article 2.12, Code of Criminal Procedure;
- (2) county jailers as defined by Section 1701.001, Occupations Code;
- (3) current or former employees of the Texas Department of Criminal Justice or of the predecessor in function of the department or any division of the department in function of the department; and
- (4) commissioned security officers as defined by Section 1702.002, Occupations Code.

(b) Information that relates to the home address, home telephone number, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

- (1) chooses to restrict public access to the information; and
- (2) notifies the governmental body of the individual’s choice on a form provided by the governmental body, accompanied by evidence of the individual’s status.

⁴The Office of the Attorney General will raise a mandatory exception like section 552.1175 on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Gov't Code § 552.1175(a)-(b). The county must withhold the home addresses we have marked under section 552.1175 if the individuals at issue elect to restrict access to the information in accordance with section 552.1175(b).

Incident report number 04-10146 also contains a driver's license number that must be withheld under section 552.130 of the Government Code. 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[.]

You must withhold the marked Texas driver's license number under section 552.130.

In summary, the county must withhold the incident reports that we have marked under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. The county may be required to withhold the information we have marked under section 552.1175 of the Government Code if the information relates to an individual who elects to restrict access to his personal information under section 552.1175(b). The county must withhold the driver's license number that we have marked under section 552.130 of the Government Code. The remaining information 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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the

Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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); *Tex. 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,



Amanda Crawford
Assistant Attorney General
Open Records Division

AEC/sdk

Ref: ID# 222237

Enc. Submitted documents

c: Mr. Ernie Wentrcek
P.O. Box 1652
Bryan, Texas 77806
(w/o enclosures)