



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 20, 2005

Ms. Holly C. Lytle
Assistant County Attorney
El Paso County
500 E. San Antonio, Room 503
El Paso, Texas 79901

OR2005-06438

Dear Ms. Lytle:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 228477.

The El Paso District Attorney (the "district attorney") received a request for a specific offense report. You claim that the request is not a valid request under the Act and, alternatively, that the requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered your arguments and reviewed the submitted information. We have also considered comments submitted by the stepfather of the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Initially, we must address your arguments that the district attorney does not have to respond to the request as it is not signed by the requestor, does not provide personal contact information for the requestor, and is from a non-citizen. No provision of the Act requires a request for information to be signed. *See generally* Gov't Code §§ 552.001 - .011. Additionally, the requestor does provide an address where he asks for the requested information to be sent. As for the requestor's citizenship, any member of the public has a right of access to information that a governmental body collects, assembles, or maintains in connection with the transaction of official business. *See* Gov't Code §§ 552.002(a), .021. Furthermore, the Act expressly provides that a governmental body "shall treat all requests for information uniformly without regard to the position or occupation of the requestor, the person on whose behalf the request is made, or the status of the individual as a member of the media." *Id.* § 552.223; *see also id.* §§ 552.007(b), .221(a), 222(a). Accordingly, the

district attorney may not treat the current request any differently than a request for the same information from any other member of the public. *See also* Gov't Code § 552.007 (prohibiting selective disclosure).

Turning to your claimed exceptions, section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You raise section 552.101 in conjunction with section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. *See* Fam. Code § 58.007(c). Law enforcement records pertaining to juvenile conduct that occurred before January 1, 1996 are governed by former section 51.14(d) of the Family Code, which was continued in effect for that purpose. *See* Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2591.

This office has concluded that section 58.007 of the Family Code, as enacted by the Seventy-fourth Legislature, does not make confidential juvenile law enforcement records relating to conduct that occurred on or after January 1, 1996. Open Records Decision No. 644 (1996). The Seventy-fifth Legislature, however, amended section 58.007 to once again make juvenile law enforcement records confidential effective September 1, 1997. Act of June 2, 1997, 75th Leg., R.S., ch. 1086, 1997 Tex. Sess. Law Serv. 4179, 4187 (Vernon). It chose not to make this most recent amendment retroactive in application. Consequently, law enforcement records pertaining to juvenile conduct that occurred between January 1, 1996 and September 1, 1997, are not subject to the confidentiality provisions of either the former section 51.14(d) or the current section 58.007 of the Family Code.

In this instance, the requested reports are law enforcement records concerning juvenile conduct occurring between January 1, 1996 and September 1, 1997. Therefore they are not confidential under section 51.14 or 58.007 and may not be withheld pursuant to section 552.101 on this basis.

However, you note that the submitted information contains Texas motor vehicle record information which is subject to section 552.130 of the Government Code. Section 552.130 excepts from disclosure information that "relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state." Gov't Code § 552.130. In accordance with section 552.130 of the Government Code, the district attorney must withhold the Texas motor vehicle record information that you have marked and the additional information that we have marked in the submitted documents.

You also note that the submitted information contains social security numbers. Section 552.147 of the Government Code¹ provides that "[t]he social security number of a

¹Added by Act of May 23, 2005, 79th Leg., R.S., S.B. 1485, § 1, sec. 552.147(a) (to be codified at Tex. Gov't Code § 552.147).

living person is excepted from" required public disclosure under the Act. However, the requestor has a special right of access to his own social security number pursuant to section 552.023. *See* Gov't Code § 552.023 (a person has a special right of access to information that is excepted from public disclosure under laws intended to protect that person's privacy interest as the subject of the information). The district attorney must withhold the marked social security numbers in the submitted information under section 552.147, except for the requestor's own social security number which he has a right of access to.

In summary, the marked Texas motor vehicle record information must be withheld in accordance with section 552.130 of the Government Code. The marked social security numbers must be withheld under section 552.147 of the Government Code, except for the requestor's own social security number which he has a right of access to. As you raise no other exceptions to disclosure, and the remaining information is not otherwise confidential by law, it must be released to the requestor.

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).

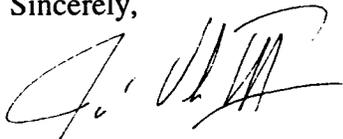
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental

body. *Id.* § 552.321(a); *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,



José Vela III
Assistant Attorney General
Open Records Division

JV/krl

Ref: ID# 228477

Enc. Submitted documents

c: Carlos Alfonso Olvera
c/o James R. Wildenboer
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(w/o enclosures)