ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 20, 2005

Ms. Ashley D. Fourt
Assistant District Attorney
Tarrant County
401 W. Belknap
Fort Worth, Texas 76196-0201

OR2005-08576

Dear Ms. Fourt:

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# 232607.

The Tarrant County Juvenile Services Department (the "department") received a request from the Disability Determination Services division of the Texas Department of Assistive and Rehabilitative Services for medical or treatment records regarding a specific individual. 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 reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by section 58.007 of the Family Code. Law enforcement records involving juvenile offenders and 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.

Fam. Code § 58.007(c). Section 58.007 concerns the physical records of a child who is involved in the juvenile justice system. *See* Open Records Decision No. 680 (1983). The submitted report chronicles the delinquent conduct of a juvenile that occurred after September 1, 1997, as well as the juvenile court's adjudications of those matters. Accordingly, we find that the submitted report is a record of a child who is involved in the juvenile justice system.

We note that section 58.007(b) of the Family Code authorizes disclosure of the information at issue to various individuals. Section 58.007(b) states in pertinent part:

> (b) Except as provided by Article 15.27, Code of Criminal Procedure, the records and files of a juvenile court, a clerk of court, a juvenile probation department, or a prosecuting attorney relating to a child who is a party to a proceeding under this title are open to inspection only by:
>
> (1) the judge, probation officers, and professional staff or consultants of a juvenile court;
>
> (2) a juvenile justice agency as that term is defined by Section 58.101;
>
> (3) an attorney for a party to the proceeding;
>
> (4) a public or private agency or institution providing supervision of the child by arrangement of the juvenile court, or having custody of the child under juvenile court order; or
>
> (5) with leave of the juvenile court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

Fam. Code § 58.007(b). Thus, although the law enforcement records of a juvenile are confidential under section 58.007(c), section 58.007(b) allows release of these records to

specific persons. In this instance, neither the requestor, a department within the Texas Department of Assistive and Rehabilitative Services, nor the subject of the report who signed a release have a right of access to the submitted report pursuant to section 58.007(b). Furthermore, the requestor has not cited us to any other provision of law that would grant them access to this report. Therefore, the submitted report is confidential pursuant to section 58.007(c) of the Family Code. Accordingly, the department must withhold the submitted information from disclosure under section 552.101 of the Government 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).

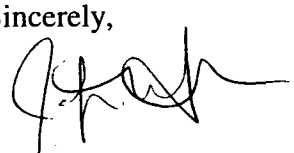
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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 Office of the Attorney General 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. 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,



Jaclyn N. Thompson
Assistant Attorney General
Open Records Division

JNT/krl

Ref: ID#232607

Enc. Submitted documents

c: W. B. Slavens
Department of Assistive and Rehabilitative Services
Disability Determination Services
P. O. Box 149198
Austin, Texas 78714-9928
(w/o enclosures)