



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 9, 2006

Mr. Robert R. Ray
Assistant City Attorney
City of Longview
P. O. Box 1952
Longview, Texas 75606-1952

OR2006-04785

Dear Mr. Ray:

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# 248406.

The City of Longview (the "city") received a request for specified reports regarding a named individual. You claim that the requested information is excepted from disclosure under sections 552.101, 552.130, 552.147 of the Government Code. We have considered the exceptions 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," and encompasses information made confidential by other statutes. Gov't Code. § 552.101. Section 58.007(c) of the Family Code provides in pertinent part 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). A portion of the submitted information involves juvenile conduct that occurred after September 1, 1997. *See* Fam. Code § 51.03(a)(3) (defining “conduct indicating a need for supervision” to include “the voluntary absence of a child from his home without the consent of his parent or guardian for a substantial length of time or without intent to return”). It does not appear that any of the exceptions in section 58.007 apply. Thus, we agree that the submitted information, which we have marked, is confidential pursuant to section 58.007(c) of the Family Code and must be withheld in its entirety under section 552.101.

Next, you assert that the marked information about a 9-1-1 caller is confidential under section 771.061 of the Health and Safety Code. Section 771.061 makes confidential “[i]nformation that a service provider of telecommunications service is required to furnish to a governmental entity in providing computerized 9-1-1 service” and “[i]nformation that is contained in an address database maintained by a governmental entity or a third party used in providing computerized 9-1-1 service.” Health & Safety Code § 771.061(a). You explain that this marked information was “used and maintained for the purpose of providing computerized 9-1-1 service” and was obtained from a third-party telecommunications service provider. Based on your representations, we conclude this marked information about 9-1-1 calls is confidential under section 771.061 of the Health and Safety Code and must be withheld under section 552.101 of the Government Code. *See also* Open Records Decision No. 661 at 1-2 (1999).

Next, section 552.130 excepts from disclosure certain motor vehicle information and 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; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

Gov’t Code § 552.130. Therefore, the city must withhold from disclosure the marked Texas driver’s license number under section 552.130.

The remaining submitted information contains social security numbers. Section 552.147 of the Government Code provides that “[t]he social security number of a living person is

excepted from" required public disclosure under the Act. Therefore, the city must withhold the marked social security number under section 552.147.¹

In summary, the city must withhold information we have marked under section 552.101 in conjunction with section 58.007 of the Family Code. The city must withhold from disclosure the marked Texas driver's license number under section 552.130 and the marked social security number under section 552.147. The marked information about 9-1-1 calls must be withheld under section 552.101 of the Government Code in conjunction with section 771.061 of the Health and Safety Code.² The remaining information 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

¹We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

²We note that the information being released includes the requestor's Texas driver's license number and social security number, which are excepted from disclosure to the general public under sections 552.130 and 552.147 of the Government Code, respectively. However, the requestor has a special right of access to this information. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates, or that person's representative, solely on the grounds that information is considered confidential by privacy principles). Because some of the information being released is confidential with respect to the general public, if the city receives a future request for this information from a person other than the requestor or his authorized representative, the city should again seek our decision.

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,



Brian J. Rogers
Assistant Attorney General
Open Records Division

BJR/krl

Ref: ID# 248406

Enc. Submitted documents

c: Mr. Richard Mutina
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(w/o enclosures)