



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 11, 2006

Mr. Warren Spencer
Legal Advisor
Plano Police Department
Post Office Box 860358
Plano, Texas 75086-0358

OR2006-07338

Dear Mr. Spencer:

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# 253773.

The Plano Police Department (the "department") received a request for any reports pertaining to a specified address after August 5, 2005. We understand that you have released some of the requested information to the requestor. 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 of the Government Code 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). Section 51.02(2)(A) defines “child” as a person who is ten years of age or older and under seventeen years of age. Fam. Code § 51.02(2)(A). Section 58.007 is not applicable to information that relates to a juvenile as a complainant, victim, witness, or other involved party and not as a suspect or offender. Upon review of the submitted information, we agree that Exhibit C pertains to juvenile conduct that occurred after September 1, 1997. It does not appear that any of the exceptions in section 58.007 apply, therefore, Exhibit C is confidential under section 58.007 and must be withheld in conjunction with section 552.101 of the Government Code. However, we find that you have failed to demonstrate that Exhibit B constitutes a law enforcement record or file concerning a juvenile suspect or offender. Therefore, no portion of Exhibit B may be withheld under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

We note that Exhibit B contains Texas driver’s license numbers subject to section 552.130 of the Government Code. This section excepts from disclosure a motor vehicle operator’s license, driver’s license, title, and registration issued by a Texas agency. Gov’t § 552.130(a)(1), (2). Accordingly, the department must withhold the Texas driver’s license numbers, which we have marked, pursuant to section 552.130 of the Government Code.

Finally, we note that Exhibit B contains a social security number. 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. Gov’t Code § 552.147. Therefore, the department must withhold the social security number, which we have marked, under section 552.147 of the Government Code.¹

In summary, the department must withhold Exhibit C in its entirety pursuant to section 58.007 of the Family Code in conjunction with section 552.101 of the Government Code. The department must withhold the marked Texas driver’s license numbers under section 552.130, and the marked social security number under section 552.147 of the Government Code. The remaining submitted 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

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.

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).

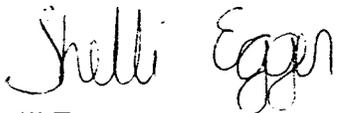
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records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



Shelli Egger
Assistant Attorney General
Open Records Division

SE/ir

Ref: ID# 253773

Enc. Submitted documents

c: Ms. Melissa Lane
41112 Bonita Drive
Plano, Texas 75024
(w/o enclosures)