



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 14, 2006

Ms. Leann D. Guzman
Assistant City Attorney
The City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2006-10727

Dear Ms. Guzman:

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# 259280.

The City of Fort Worth (the "city") received a request for a specified incident report. We have considered your comments and reviewed the submitted documentation.

Chapter 58, subchapter C of the Family Code pertains to the automatic restriction of access to juvenile records in specific instances. *See* Fam. Code §§ 58.201-.211. Section 58.203 of the Family Code, "Certification," provides in relevant part:

(a) The [Texas Department of Public Safety (the "department")] shall certify to the juvenile probation department to which a referral was made that resulted in information being submitted to the juvenile justice information system that the records relating to a person's juvenile case are subject to automatic restriction of access if:

- (1) the person is at least 21 years of age;
- (2) the juvenile case did not include violent or habitual felony conduct resulting in proceedings in the juvenile court under Section 53.045 [of the Family Code];
- 7(3) the juvenile case was not certified for trial in criminal court under Section 54.02 [of the Family Code]; and

(4) the department has not received a report in its criminal history system that the person was granted deferred adjudication for or convicted of a felony or a misdemeanor punishable by confinement in jail for an offense committed after the person became 17 years of age.

(b) If the department's records relate to a juvenile court with multicounty jurisdiction, the department shall issue the certification described by subsection (a) to each juvenile probation department that serves the court. On receipt of the certification, each juvenile probation department shall determine whether it received the referral and, if it received the referral, take the restrictive action notification required by law.

Fam. Code § 58.203(a), (b). Section 58.204 of the Family Code, "Restricted Access on Certification," provides in relevant part:

(a) On certification of records in a case under Section 58.203, the department except as provided by Subsection (b):

(1) may not disclose the existence of the records or any information from the records in response to an inquiry from:

(A) a law enforcement agency;

(B) a criminal or juvenile justice agency;

(C) a governmental or other agency given access to information under Chapter 411, Government Code; or

(D) any other person, agency, organization, or entity; and

(2) shall respond to a request for information about the records by stating that the records do not exist.

(b) On certification of records in a case under Section 58.203, the department may permit access to the information in the juvenile justice information system relating to the case of an individual only:

(1) by a criminal justice agency for a criminal justice purpose, as those terms are defined by Section 411.082, Government Code; or

(2) for research purposes, by the Texas Juvenile Probation Commission, the Texas Youth Commission, or the Criminal Justice Policy Council.

Id. § 58.204. Furthermore, section 58.207 of the Family Code, “Juvenile Court Orders on Certification,” provides in relevant part:

(a) On certification of records in a case under Section 58.203, the juvenile court shall order:

(1) that the following records to the case may be accessed only as provided by Section 58.204(b):

...

(E) records maintained by a law enforcement agency[.]

...

(b) On receipt of an order under Subsection (a)(1), the agency maintaining the records:

(1) may allow access only as provided by Section 58.204(b); and

(2) shall respond to a request for information about the records by stating that the records do not exist.

Id. § 58.207(a)(1)(E), (b). Upon review of your comments and the statutory scheme promulgated in chapter 58, subchapter C of the Family Code, we find that the city must respond to the request for information in this case by stating the requested records do not exist.

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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/eb

Ref: ID# 259280

Enc. Submitted documents

c: Mr. Jeremy Greene
6928 Ridgmar Meadow Road
Fort Worth, Texas 76116-1513
(w/o enclosures)