ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 30, 2006

Ms. Nicole B. Webster
Assistant City Attorney
City of Waco
Legal Services
P. O. Box 2570
Waco, Texas 76702-2570

OR2006-12767

Dear Ms. Webster:

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# 263181.

The City of Waco (the "city") received two requests from two different requestors for information pertaining to a particular vehicular accident. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the submitted information includes accident report forms that appear to have been completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) states that except as provided by subsection (c), accident reports are privileged and confidential. Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *Id.* § 550.065(c)(4). Under this provision,

the Department of Public Safety or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more pieces of information specified by the statute. *Id.* In the situation at hand, the first requestor has provided the name of an individual involved in the accident and a date. However, because the date provided by the first requestor is not the date of the accident, we find that the first requestor has not provided the required information. Therefore, the city must withhold the submitted accident reports from the first requestor pursuant to section 550.065(c)(4). The second requestor, however, has provided the required information. Thus, under section 550.065(c)(4), the city must release unredacted copies of the submitted accident reports to the second requestor.

We next address your claim under section 552.101 of the Government Code with respect to the remaining 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. Section 552.101 encompasses confidentiality provisions such as section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. *See* Fam. Code § 58.007. The relevant language of this section 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.

Id. § 58.007(c). Upon review, we find that the submitted information involves allegations of juvenile conduct that occurred after September 1, 1997. *See id.* § 51.02(2) (providing that in title 3 of Family Code, "child" means person who is ten years of age or older and under seventeen years of age). Thus, the remaining submitted information is subject to section 58.007, and it does not appear that any of the exceptions in section 58.007 apply. As such, this information must be withheld under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

To conclude, the accident report forms must be withheld from the first requestor and released to the second requestor pursuant to section 550.065(c)(4) of the Transportation Code. The remaining submitted information must be withheld under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. As we reach these conclusions, we need not address your remaining arguments.

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 ten 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).

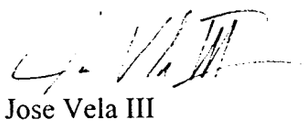
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records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

Sincerely,



Jose Vela III
Assistant Attorney General
Open Records Division

JV5/eb

Ref: ID# 263181

Enc. Submitted documents

c: Ms. Jenni Fann
14090 Southwest Freeway, Suite 308
Sugar Land, Texas 77478
(w/o enclosures)

Mr. Scott Ozmun
Whitehurst, Harkness, Ozmun & Brees, P.C.
P. O. Box 1802
Austin, Texas 78767
(w/o enclosures)