



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 27, 2007

Ms. D. Armstrong
Administrative Assistant
Criminal Division
Hood County Sheriff's Office
400 North Gordon
Granbury, Texas 76048

OR2007-03361

Dear Ms. Armstrong:

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# 274619.

The Hood County Sheriff's Office (the "sheriff") received a request for calls for service and complaints concerning three named individuals. 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.

Section 552.101 of the Government Code 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 made confidential by other statutes. Section 58.007 of the Family Code makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. Fam. Code § 58.007(c). 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). A portion of the submitted information involves juvenile conduct that occurred after September 1, 1997. It does not appear that any of the exceptions in 58.007 apply. We have marked the information the sheriff must withhold under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

Section 552.101 also encompasses section 261.201 of the Family Code, which provides in relevant part:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). Because some of the submitted information consists of files, reports, records, communications, or working papers used or developed in an investigation under chapter 261, the information is within the scope of section 261.201 of the Family Code. *See id.* § 261.001 (defining “abuse” for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining “child” for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). We have marked this information accordingly. Since you have not indicated that the sheriff has adopted a rule that governs the release of this type of information, we assume that no such regulation exists. Given that assumption,

the information we have marked is confidential pursuant to section 261.201 of the Family Code and must be withheld under section 552.101 of the Government Code.

You assert that the remaining information is excepted under section 552.108(a)(1) of the Government Code. A governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. Gov't Code §§ 552.108(a)(1), 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). However, you do not explain how release of the remaining information would interfere in some way with the detection, investigation, or prosecution of crime. Thus, we find you have failed to establish that any of the remaining information is excepted under section 552.108(a)(1), and the sheriff may not withhold any of the remaining information on that ground.

In summary, the sheriff must withhold the information we have marked under section 552.101 of the Government Code in conjunction with sections 58.007 and 261.201 of the Family 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 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,



Aries Solis
Assistant Attorney General
Open Records Division

AS/eb

Ref: ID# 274619

Enc. Submitted documents

c: Mr. Jerry Martinez
209 South Donville C-109
Abilene, Texas 79605
(w/o enclosures)