



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 10, 2007

Ms. Lindy Page
Chief Deputy
Jack County Sheriff's Office
1432 Post Oak Road
Jacksboro, Texas 76458

OR2007-08653

Dear Ms. Page:

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# 283842.

The Jack County Sheriff's Office (the "sheriff") received a request for the sheriff's report and copies of all citations related to a specified event. You claim that the requested information is exempted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.²

Section 552.101 of the Government Code exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This

¹We understand you to raise section 552.101 in conjunction with section 58.007 of the Family Code, not section 552.102 of the Government Code.

²Although you initially raised section 552.108 of the Government Code, you have not submitted arguments explaining how this exception applies to the submitted information. Therefore, the sheriff has waived its claim under this exception. See Gov't Code § 552.301(e)(governmental body must provide arguments explaining why exceptions raised should apply to information requested); *see also* Open Records Decision No. 665 (2000) (discretionary exceptions in general).

section encompasses 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. Section 58.007(c) reads as follows:

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). Some of the submitted documents contain information that involves juvenile conduct occurring after September 1, 1997. *See id.* 51.02(2)(A) (“child” defined as person ten years of age or older and under seventeen years of age). It does not appear that any of the exceptions in section 58.007 apply. Therefore, this information, which we have marked, is confidential pursuant to section 58.007(c) of the Family Code and the sheriff must withhold it under section 552.101 of the Government Code. However, the remaining information, which consists of citations to individuals who were seventeen years of age or older, does not constitute juvenile law enforcement records for purposes of section 58.007, and the sheriff may not withhold it under section 552.101 on that ground. *See id.*

We note that some of the remaining submitted information is excepted from disclosure under section 552.130 of the Government Code, which provides that information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by a Texas agency is excepted from public release.³ Gov’t Code § 552.130(a)(1), (2). We have marked the information that the sheriff must withhold under section 552.130 of the Government Code.

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

³The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Code. The sheriff must also withhold the marked Texas motor vehicle record information under section 552.130 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 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,

A handwritten signature in cursive script that reads "Paige Savoie".

Paige Savoie
Assistant Attorney General
Open Records Division

PS/ma

Ref: ID# 283842

Enc. Submitted documents

c: Mr. Edwin Newton
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(w/o enclosures)