



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 6, 2007

Ms. Sandy Dudley  
Records Coordinator  
Cleburne Police Department  
P.O. Box 677  
Cleburne, Texas 76033-0677

OR2007-11635

Dear Ms. Dudley:

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# 293356.

The Cleburne Police Department (the "department") received a request for information involving five specified streets. You state that most of the requested information has been released. You claim that other responsive information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions you claim and have reviewed the information you submitted.

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 exception encompasses information that other statutes make confidential. You raise section 552.101 in conjunction with section 58.007 of the Family Code, which provides in part:

(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 58.007(c) is applicable to records of juvenile conduct that occurred on or after September 1, 1997. *See* Act of June 2, 1997, 75<sup>th</sup> Leg., R.S., ch. 1086, §§ 20, 55(a), 1997 Tex. Gen. Laws 4179, 4187, 4199; Open Records Decision No. 644 (1996). The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See* Fam. Code § 51.02(2) (defining “child” for purposes of title 3 of Family Code). 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. We agree that the information submitted as Exhibits 2 and 3 involves a juvenile offender and must be withheld from disclosure under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

We note that section 552.1175 of the Government Code is applicable to some of the remaining information.<sup>1</sup> Section 552.1175 protects information relating to a peace officer, as defined by article 2.12 of the Code of Criminal Procedure, and provides in part:

(b) Information that relates to the home address, home telephone number, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual’s choice on a form provided by the governmental body, accompanied by evidence of the individual’s status.

Gov’t Code § 552.1175(b). You state that the address and telephone number in Exhibits 4, 5, and 6 are those of a peace officer who is employed by a law enforcement agency other than

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<sup>1</sup>Unlike other exceptions to disclosure under the Act, this office will raise section 552.1175 on behalf of a governmental body, as this exception is mandatory and may not be waived. *See* Gov’t Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

the department. You have provided a copy of a communication in which the officer requests that his address and telephone number be withheld from disclosure. We therefore conclude that the department must withhold the officer's home address and home telephone number, which we have marked, under section 552.1175.<sup>2</sup>

We also note that section 552.130 of the Government Code is applicable to some of the remaining information.<sup>3</sup> This section excepts from disclosure information that relates to a motor vehicle title or registration issued by an agency of this state. *See id.* § 552.130(a)(2). The department must withhold the Texas license plate number that you have marked in Exhibits 4 and 5, as well as the additional information that we have marked, under section 552.130.

In summary: (1) the department must withhold Exhibits 2 and 3 under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code; (2) the marked home address and telephone number in Exhibits 4, 5, and 6 must be withheld under section 552.1175 of the Government Code; and (3) the marked Texas license plate number in Exhibits 4 and 5, as well as the additional information that we have marked, must be withheld under section 552.130 of the Government Code. The rest of the 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

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<sup>2</sup>As we are able to make this determination, we need not address your claim under section 552.1117 of the Government Code.

<sup>3</sup>Section 552.130 also is a mandatory exception and may not be waived. Gov't Code §§ 552.007, .352; ORD 674 at 3 n.4.

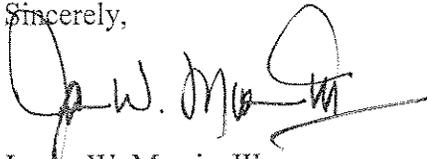
statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental 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,



James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/ma

Ref: ID# 293356

Enc: Submitted documents

c: Ms. Denise Jones  
1230 Tanglewood Drive  
Cleburne, Texas 76033  
(w/o enclosures)