



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 9, 2007

Ms. Mindy Ward
City Attorney
City of San Angelo
P.O. Box 1751
San Angelo, Texas 76902

OR2007-13064

Dear Ms. Ward:

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# 291307.

The San Angelo Police Department (the "department") received a request for a specified incident report involving a named individual. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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. Section 552.101 encompasses information protected by other statutes such as section 58.007 of the Family Code. Section 58.007 makes confidential the law enforcement records of a juvenile who, on or after September 1, 1997, engaged in delinquent conduct or conduct indicating a need for supervision. *See* Fam. Code § 51.03 (defining "delinquent conduct" and "conduct indicating a need for supervision"). The relevant language of 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). For purposes of section 58.007, “child” means a person who is ten years of age or older and under seventeen years of age. *See* Fam. Code § 51.02(2). We note, however, that section 58.007 is not applicable to information that relates to a juvenile as a complainant, victim, witness, or other involved party; it is only applicable to juveniles listed as suspects or offenders. *See id.* § 58.007. In this instance, the submitted documents do not identify a juvenile suspect or offender. Accordingly, the submitted information may not be withheld under section 552.101 in conjunction with section 58.007 of the Family Code.

We note that the submitted documents contain information subject to section 552.130 of the Government Code.¹ Section 552.130 excepts from disclosure “information [that] relates to . . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state.” Gov’t Code § 552.130. Accordingly, the department must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code. We note, however, that the requestor is the insurance provider of the named individual. As such, the requestor may have a right of access to the information belonging to the named individual as the insured’s authorized representative. *See* Gov’t Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when an individual or authorized representative asks governmental body to provide information concerning that individual). In this instance, it is not clear that the requesting insurance company is acting as the named individual’s authorized representative. Therefore, we rule conditionally. To the extent the requestor has a right of access under section 552.023 to the marked Texas motor vehicle record information belonging to the named individual, the department must release the named individual’s information to the requestor. To the extent the requestor does not have a right of access under section 552.023, in addition to the marked Texas motor vehicle record information not belonging to the named individual, the department must also withhold the marked information belonging to the named individual under section 552.130 of the Government Code.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the department must withhold the information we have marked under section 552.130 of the Government Code. However, to the extent the requestor is the authorized representative of the named individual in the submitted incident report, the marked Texas motor vehicle record information belonging to the named individual must be released to the requestor. The department must withhold the marked Texas motor vehicle record information not belonging to the named individual pursuant to section 552.130 of the Government Code. The remaining information must be released.²

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).

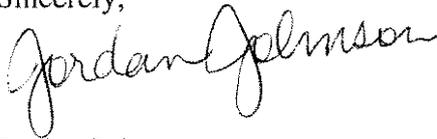
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

²We note that the submitted information contains a social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. However, if the requestor is the authorized representative of the named individual, she has a right of access to this information under section 552.023 of the Government Code.

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 black ink that reads "Jordan Johnson". The signature is written in a cursive, flowing style.

Jordan Johnson
Assistant Attorney General
Open Records Division

JJ/jb

Ref: ID# 291307

Enc. Submitted documents

c: Ms. Rachel Phillips
United Fire Group
P.O. Box 73909
Cedar Rapids, Iowa 52407-9986
(w/o enclosures)