



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 28, 2008

Ms. Candice M. De La Garza
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR2008-07223

Dear Ms. De La Garza:

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# 310908.

The City of Houston (the "city") received a request for information regarding a specified incident. 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.

You inform us that some of the requested information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2007-07415. Based on your representation, we conclude that, to the extent that information responsive to the current request is identical to the information previously requested and ruled upon by this office, and the law, facts, and circumstances on which the prior ruling was based have not changed, the city may continue to rely on that ruling as a previous determination and withhold or release any such information in accordance with Open Records Letter No. 2007-07415. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). To the extent the submitted information is not identical, we will consider your arguments.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 58.007 of the Family Code. Law enforcement records involving juvenile offenders and relating to conduct that occurred

on or after September 1, 1997 are confidential under section 58.007. Section 58.007(c) provides in pertinent 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.

Id. § 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). You state that the submitted information involves juvenile delinquent conduct that occurred after September 1, 1997. It does not appear that any of the exceptions in section 58.007 apply. Therefore, the submitted information is confidential pursuant to section 58.007(c) of the Family Code and must be withheld under section 552.101 of the Government Code.

In summary, to the extent that information responsive to the current request is identical to the information previously requested and ruled upon by this office, and the law, facts, and circumstances on which the prior ruling was based have not changed, the city may continue to rely on that ruling as a previous determination and withhold any such information in accordance with Open Records Letter No. 2007-07415. The submitted information is confidential pursuant to section 58.007(c) of the Family Code and must be withheld under section 552.101 of the Government Code.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of

such a challenge, 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).

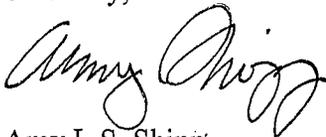
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records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



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/jb

Ref: ID# 310908

Enc. Submitted documents

c: Ms. April F. Robbins
Bracket & Ellis
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(w/o enclosures)