



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

September 15, 2008

Mr. Paul F. Wieneskie  
Attorney at Law  
204 South Mesquite  
Arlington, Texas 76010

OR2008-12632

Dear Mr. Wieneskie:

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# 322144.

The Euless Police Department (the "department"), which you represent, received a request for three specified incident reports. You claim the submitted 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.

Initially, we note the requestor excludes from her request social security numbers, personal financial identification numbers, Texas license plate numbers, driver's license numbers, and vehicle identification numbers. Thus, any of these types of information within the submitted documents are not responsive to the instant request. Our ruling does not address this non-responsive information, and the department need not release it in response to the request.

Next, we note you have only submitted two of the requested incident reports. You have not submitted for our review incident report number 08-35898. Further, you have not indicated you have released or will release this report or you wish to withhold this report from disclosure. Therefore, to the extent any information responsive to the request for incident report number 08-35898 existed on the date the department received this request, we assume you have released it to the requestor. If you have not released any such information, you must release it at this time. *See* Gov't Code §§ 552.301(a), .302.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section encompasses section 58.007 of the Family Code, which 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 Subchapters B, D, and E.

Fam. Code § 58.007(c). Section 58.007 makes confidential juvenile law enforcement records relating to conduct indicating a need for supervision that occurred on or after September 1, 1997. *See id.* §§ 51.02(2) (defining “child” for purposes of section 58.007 as a person who is ten years of age or older and under seventeen years of age at the time of the reported conduct), 51.03(b)(1) (defining “conduct indicating a need for supervision” to include misdemeanor violations of law punishable by fine only or violations of penal ordinances of any political subdivision of this state). After reviewing the submitted reports, we find they involve, among other things, a juvenile engaging in conduct indicating a need for supervision that occurred after September 1, 1997. You do not indicate, nor does it appear, that any of the exceptions in section 58.007 apply to the submitted information. Therefore, the department must withhold incident report number 0800036824, as well as the information we have marked in incident report number 0800036836, under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. As you raise no other exceptions to disclosure, the remaining information in incident report number 0800036836 must be released to the requestor.<sup>1</sup>

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

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<sup>1</sup>We note some of the information being released is confidential and not subject to release to the general public. However, the requestor in this instance has a special right of access to the information. Gov’t Code § 552.023. Should the department receive another request for these same records from a person who would not have a special right of access to the private information, the department should resubmit this same information and request another ruling from this office. *See id.* §§ 552.301(a), .302.

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). If the governmental body does not file suit over 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,



Katherine M. Kroll  
Assistant Attorney General  
Open Records Division

KMK/eeg

Ref: ID# 322144

Enc. Submitted documents

c: Ms. Karen Johnson  
200 Bear Creek Drive #247  
Euless, Texas 76039  
(w/o enclosures)