



April 1, 2002

Ms. Myrna S. Reingold
Legal Department
Galveston County
4127 Shearn Moody Plaza
123 Rosenberg
Galveston, Texas 77550-1454

OR2002-1562

Dear Ms. Reingold:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 160712.

The Galveston County Sheriff's Office (the "sheriff's office") received a request for all documents pertaining to four specified addresses. You indicate that you have released some responsive information to the requestor. You state, however, that you only maintain information pertaining to one of the four specified addresses.¹ You claim that the submitted information is excepted from disclosure pursuant to section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.

You claim that a portion of the information is excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.² Section 58.007 provides that juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. Section 58.007 states in pertinent part:

¹ We note that it is implicit in several provisions of the Public Information Act (the "Act") that the Act applies only to information already in existence. See Gov't Code §§ 552.002, .021, .227, .351. The Act does not require a governmental body to prepare new information in response to a request. See Attorney General Opinion H-90 (1973); see also Open Records Decision Nos. 87 (1975), 342 at 3 (1982), 416 at 5 (1984), 452 at 2-3 (1986), 555 at 1-2 (1990), 572 at 1 (1990). A governmental body must only make a good faith effort to relate a request to information which it holds. See Open Records Decision No. 561 at 8 (1990).

² Section 552.101 of the Government Code excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. Section 552.101 encompasses information protected by other statutes.

(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). We note that a “child” is defined in the Family Code as a person who is ten years of age or older and under seventeen years of age. *See* Fam. Code § 51.02(2). The information reflects that the complainant in this matter was seventeen years old at the time of the delinquent conduct. Therefore, the information does not concern juvenile conduct that is encompassed by section 58.007(c) of the Family Code. Accordingly, we conclude that the sheriff’s office may not withhold any portion of the information from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

You also claim that the “911 Stat Reports” are excepted from disclosure in their entirety pursuant to section 552.101 in conjunction with section 772.318 of the Health and Safety Code. You state that the Galveston County Emergency Communication District was established in accordance with chapter 772, which authorizes the development of local emergency communications districts. We note that sections 772.118, 772.218 and 772.318 only make the originating telephone numbers and addresses of 911 callers furnished by a service supplier confidential. *See* Open Records Decision No. 649 (1996). Section 772.118 applies to emergency communication districts for counties with a population over two million. Section 772.218 applies to emergency communication districts for counties with a population over 860,000. Section 772.318 applies to emergency communication districts for counties with a population over 20,000. Subchapter E, which applies to counties with populations over 1.5 million, does not contain a confidentiality provision regarding 911 telephone numbers and addresses. *See* Health & Safety Code § 772.401, *et seq.* Thus, if the emergency communication district here is subject to section 772.118, 772.218 or 772.318 of the Health and Safety Code, the originating telephone numbers and addresses of 911 callers that we have marked must be withheld from disclosure pursuant to section 552.101 in conjunction with chapter 772 of the Health and Safety Code. However, we are not persuaded that the remaining information on the “911 Stat Reports” is made confidential

under sections 772.118, 772.218 and 772.318 of the Health and Safety Code. Accordingly, the sheriff's office must release the remaining information in the "911 Stat Reports" to the requestor.

We also note that the information contains driver's license numbers that we have marked. Section 552.130 of the Government Code excepts information from disclosure 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. *See* Gov't Code § 552.130. If the marked numbers are Texas driver's license numbers, then the sheriff's office must withhold those numbers from disclosure pursuant to section 552.130 of the Government Code. Otherwise, the sheriff's office must release those numbers to the requestor.

In summary, the sheriff's office must withhold from disclosure the information that we have marked pursuant to section 552.101 of the Government Code in conjunction with chapter 772 of the Health and Safety Code, if the emergency communication district here is subject to section 772.118, 772.218 or 772.318 of the Health and Safety Code. The sheriff's office must withhold the marked driver's license numbers from disclosure if the numbers are Texas driver's license numbers pursuant to section 552.130 of the Government Code. Otherwise, the sheriff's office must release those numbers to the requestor. The sheriff's office must release the remaining information to the requestor.

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, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one

of these three things within 10 calendar days of this ruling, 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 Department of Public 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 Texas Building and Procurement Commission 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Ronald J. Bounds
Assistant Attorney General
Open Records Division

RJB/seg

Ref: ID# 160712

Enc. Marked documents

cc: Ms. Naomi Terr
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412 Main, Suite 1150
Houston, Texas 77002
(w/o enclosures)