



April 8, 2002

Ms. Loren B. Smith  
Olson & Olson  
333 Clay Street, Suite 3485  
Houston, Texas 77002

OR2002-1729

Dear Ms. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 160897.

The Friendswood Police Department (the "department") received a request for "[a]ny and all calls made to or in response of activity" at a specified address within the last two years. You indicate that some responsive information has been released to the requestor. You claim that the remainder of the requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 58.007 of the Family 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." Section 552.101 encompasses confidentiality provisions such as Family Code section 58.007. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. The relevant language of section 58.007(c) reads as follows:

(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.

One of the documents you have submitted for our review involves juvenile conduct that occurred after September 1, 1997. It does not appear that any of the exceptions in section 58.007 apply; therefore, we have marked the document that is confidential pursuant to 58.007(c) of the Family Code. You must withhold the marked document from disclosure under section 552.101 of the Government Code. The remainder of the submitted information either does not identify a juvenile as a criminal suspect, or does not indicate that a crime or delinquent conduct is being alleged. We note that Section 58.007 applies to information that involves a juvenile suspect or offender, but does not apply where the information in question involves only a juvenile complainant or witness. We conclude that the remainder of the submitted information cannot be withheld under section 552.101 in conjunction with section 58.007 of the Family Code.

Section 552.130 of the Government Code excepts from public disclosure information relating to a driver's license or a motor vehicle title or registration issued by an agency of this state. One of the remaining submitted documents contains a license plate number, but there is no indication that the license plate number was issued by an agency of the State of Texas. We therefore have no basis for concluding that the license plate number is excepted from disclosure under section 552.130.<sup>1</sup> If the department determines that the license plate number was issued by an agency of the State of Texas, then the department must withhold the number under section 552.130. We conclude that the remainder of the submitted information must be released 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

---

<sup>1</sup> The department submitted documents that were marked in a manner that obscured information from our review. Failure to properly mark the information may force us to rule that the information is presumed public. See Gov't Code §§ 552.301, 552.302 (governmental body seeking to withhold information must submit a copy of the specific information requested, failure to comply results in the legal presumption that the requested information is public).

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,



David R. Saldivar  
Assistant Attorney General  
Open Records Division

DRS/sdk

Ref: ID# 160897

Enc: Submitted documents

c: Ms. Kimberly King  
3040 Post Oak Boulevard, #22  
Houston, Texas 77056  
(w/o enclosures)