



July 23, 2002

Mr. Ron Stokes
Assistant Auditor
Auditor's Office of Parker County
1112 Santa Fe Drive
Weatherford, Texas 76086

OR2002-4020

Dear Mr. Stokes:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 166033.

The Auditor's Office of Parker County (the "auditor") received a request for any and all information pertaining to the audit of the office of one of Parker County's Justices of the Peace. You inform us that the auditor has no objection to release of the majority of the audit work papers requested, but ask whether a portion of the requested information is made confidential under section 58.007 of the Family Code. We have considered your comments and have 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." This exception protects information that another statute makes confidential. Section 58.007(c) of the Family Code generally makes confidential law enforcement records concerning a child. We note, however, that section 58.007(a) provides in relevant part:

(a) This section applies only to the inspection and maintenance of a physical record or file concerning a child and the storage of information, by electronic means or otherwise, concerning the child from which a physical record or file could be generated and does not affect the collection, dissemination, or maintenance of information as provided by Subchapter B. *This section does not apply to a record or file relating to a child that is:*

.....
(2) *maintained by a municipal or justice court;*
.....

Fam. Code § 58.007(a) (emphasis added). Thus, while section 58.007(c) makes confidential law enforcement records pertaining to juvenile conduct that occurred on or after September 1, 1997,¹ records maintained by a justice court are explicitly excluded from the scope of confidentiality afforded by section 58.007(c).² As the information you have submitted to this office is information obtained by the auditor from the office of one of the county's Justices of the Peace, and as the auditor is not a law enforcement agency for purposes of section 58.007(c), we thus conclude that this information is not made confidential by section 58.007(c). Gov't Code § 58.007(a)(2). As you raise no other exceptions to disclosure, the submitted information must be released to the requestor. *See also* Gov't Code § 27.004 (all papers filed in case in justice court are subject to inspection of any interested party at reasonable times).

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).

¹See Act of June 2, 1997, 75th Leg., R.S., ch. 1086, §§ 20, 55(a), 1997 Tex. Gen. Laws 4179, 4187, 4199; Open Records Decision No. 644 (1996).

²According to a Historical and Statutory Note following the text of section 58.007,

Section 52 of Acts 1997, 75th Leg., ch. 1086 provides: "The change in law made by this Act to Section 58.007(a), Family Code, applies to law enforcement files and records maintained by a municipal or justice court before, on, or after September 1, 1997."

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,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/jh

Ref: ID# 166033

Enc. Submitted documents

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c: Mr. Gary Plugge
Commissioner, Pct 4
County of Parker
1320 Airport Road
Aledo, Texas 76008
(w/o enclosures)