



OFFICE of the ATTORNEY GENERAL
GREG ABBOTT

April 1, 2003

Mr. Leonard V. Schneider
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2 Riverway, Suite 700
Houston, Texas 77056-1918

OR2003-2205

Dear Mr. Schneider:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 178685.

The League City Police Department (the "department"), which you represent, received a request for incident and arrest reports regarding a specified person for a specified date and a specified street. You indicate that you have released some responsive information. You claim, however, that the remaining requested information is excepted from disclosure pursuant to sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted information. We have also considered comments submitted by a representative of the requestor. *See Gov't Code* § 552.304 (providing that person may submit comments stating why information should or should not be released).

You claim that a portion of the submitted information on page "#0003" is excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.¹ 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:

(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 Section 552.101 of the Government Code excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. *See Gov't Code* § 552.101. Section 552.101 encompasses information that is protected from disclosure by other statutes.

- (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 section 58.007 does not apply where the information in question involves only a juvenile complainant or witness and not a juvenile suspect or offender. *See* Fam. Code § 51.04(a)(Title 3 covers cases involving delinquent conduct or conduct indicating need for supervision engaged in by child). After carefully reviewing this particular information, we find that this information does not concern the delinquent conduct of a juvenile. *See* Fam. Code § 51.03 (defining "delinquent conduct"). Accordingly, we conclude that the department may not withhold any portion of this particular information under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. Consequently, the department must release all of this particular information to the requestor.

You also claim that a portion of the submitted information on page "#0003" and all of the submitted information on pages "#0004" through "#0007" is excepted from disclosure pursuant to section 552.108(a)(2) of the Government Code. Section 552.108(a)(2) protects records pertaining to criminal investigations or prosecutions that have concluded in a final result other than conviction or a deferred adjudication. *See* Gov't Code § 552.108(a)(2). You state that the submitted information concerns an investigation that concluded in a result other than conviction or deferred adjudication. Thus, we understand from your representation that the information relates to a case that has concluded in a final result other than conviction or deferred adjudication. Thus, we agree that section 552.108(a)(2) is applicable to this particular information.

We note, however, that section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *See* Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 (1976) (summarizing types of basic information that must be made available to public, including detailed description of offense). Accordingly, with the exception of basic information that is contained throughout the information that you claim to be excepted from disclosure under section 552.108(a)(2) on pages "#0003" through "#0007," we conclude that the department may withhold this information pursuant to section 552.108(a)(2) of the Government Code.

Finally, you claim that portions of the submitted information on pages "#0002" and "#0003" are excepted from disclosure pursuant to section 552.130 of the Government Code. Section 552.130 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. Accordingly, we agree that the department must withhold this particular information pursuant to section 552.130 of the Government Code.

In summary, with the exception of basic information that is contained throughout the information that you claim to be excepted from disclosure under section 552.108(a)(2) on pages "#0003" through "#0007," we conclude that the department may withhold this information pursuant to section 552.108(a)(2) of the Government Code. The department must withhold the information on pages "#0002" and "#0003" that it claims to be excepted from disclosure under section 552.130 of the Government Code pursuant to that exception to disclosure. The department must release the remaining information at issue 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 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 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/lmt

Ref: ID# 178685

Enc. Submitted documents

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