



OFFICE of the ATTORNEY GENERAL
GREG ABBOTT

May 12, 2003

Mr. Gary A. Scott
Assistant City Attorney
City of Conroe
P.O. Box 3066
Conroe, Texas 77305

OR2003-3160

Dear Mr. Scott:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 180803.

The City of Conroe (the "city") received a written request for records regarding "any dispatched calls" to a particular address. You state that some of the responsive information has been released to the requestor. You contend, however, that the remaining information coming within the scope of the request is excepted from required disclosure pursuant to sections 552.101 and 552.108 of the Government Code.

You contend that the submitted information is made confidential under section 58.007 of the Family Code and thus must be withheld from the public pursuant to section 552.101 of the Government Code.¹ Section 58.007(c) of the Family Code provides in pertinent part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child may not be disclosed to the public and shall be:

(1) kept separate from adult files and records; and

¹Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

(2) 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). Subsection 58.007(d) authorizes the release of certain juvenile law-enforcement records to the Texas Youth Commission and the Texas Department of Criminal Justice, and thus is inapplicable here. *See also* Fam. Code § 58.007(e) (authorizing release of juvenile law-enforcement records to other juvenile justice agency or criminal justice agency). Section 58.007(c) does not grant the law-enforcement officials controlling juvenile records discretion as to who else may see them.² After reviewing the submitted records, we conclude that Report #98041184 constitutes a law-enforcement record concerning delinquent conduct for purposes of section 58.007(c). Because section 58.007(c) does not authorize the release of the juvenile law-enforcement records in this instance, we conclude that the city must withhold Report #98041184 in its entirety pursuant to section 552.101 of the Government Code.³ *See* Open Records Decision No. 181 (1977).

On the other hand, the other incident report you submitted to this office, Report #98081487, does not reveal either the identity or age of the suspect. Consequently, this office has no basis for concluding that this report is made confidential under section 58.007(c). We therefore must address the applicability of the other exception you raise for this report. Section 552.108(a)(2) of the Government Code exempts from required public disclosure “[i]nformation held by a law enforcement agency . . . that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication.” You represent that Report #98081487 pertains to a criminal investigation that has concluded in a result other than a criminal conviction or deferred adjudication. We therefore conclude that the city may withhold most of the information contained in this incident report pursuant to section 552.108(a)(2) of the Government Code.

Section 552.108 does not, however, exempt from required public disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). The city therefore must release these types of information, including a *detailed* description of the alleged offense, regardless of whether the basic information is actually contained on the front page of the incident report, in accordance with *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975),

²This is in contrast to section 58.007(b) of the Family Code, which allows “with leave of the juvenile court” inspection of juvenile court records by any person “with a legitimate interest.” *See* Fam. Code § 58.007(b).

³Because we resolve your request under section 552.101, we need not address the applicability of the other exception you raised for this record.

writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976); *see also* Open Records Decision No. 127 (1976).

In summary, the city must withhold Report #98041184 in its entirety pursuant to section 552.101. The city also may withhold most of Report #98081487 pursuant to section 552.108(a)(2), but all basic information from this report 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 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,



Heather Pendleton Ross
Assistant Attorney General
Open Records Division

HPR/RWP/seg

Ref: ID# 180803

Enc: Submitted documents

c: Mr. Mel Bailey
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Montgomery, Texas 77316
(w/o enclosures)