



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

July 29, 2003

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

OR2003-5202

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# 185119.

The Galveston County Sheriff's Department (the "department") received a request for a specific offense report. The requestor is the superintendent of a local school district. You claim that the requested report is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim 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." Section 552.101 encompasses confidentiality provisions such as section 58.007 of the Family Code. 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.

The information at issue involves juvenile conduct that occurred after September 1, 1997. Thus, we agree that the requested information is confidential pursuant to section 58.007(c) of the Family Code.

You ask, however, whether the department may release the report to this requestor as an interagency transfer. For many years, this office has recognized that it is the public policy of this state that governmental bodies should cooperate with each other in the interest of the efficient and economical administration of statutory duties. In adherence to this policy, this office has acknowledged in numerous opinions and decisions that information may be transferred between governmental bodies without violating its confidential character on the basis of a recognized need to maintain an unrestricted flow of information between governmental bodies. *See, e.g.*, Attorney General Opinions GA-0055 (2003), H-836 (1976), M-713 (1970); Open Records Decision Nos. 667 (2000), 661 (1999). This office has also found, however, that an interagency transfer is prohibited where a confidentiality statute enumerates specific entities to which release of confidential information is authorized and the receiving agency is not among those enumerated entities. *See* Attorney General Opinions GA-0055 (2003), JM-590 (1986); Open Records Decision No. 655 (1997). This is so because where the statute lists the entities authorized to receive confidential information, a release to an unlisted entity would be contrary to the legislative intent of the statute. *See* Attorney General Opinion JM-590 at 4 (1986) (stating that legislature's express mention or enumeration of one person, thing, consequence, or class is tantamount to express exclusion of all others).

Section 58.007(c) enumerates specific entities that may receive and inspect confidential juvenile information. *See* Fam. Code § 58.007(c), (d), (e), (f) (indicating circumstances under which certain entities may receive juvenile law enforcement records). A school district, however, is not among these listed entities. *But see* Crim. Proc. Code art. 15.27 (requiring law enforcement agencies to notify school officials about arrest or referral of child for violation of certain offenses). Since the department may not release the requested report to the requestor under section 58.007 or the interagency transfer doctrine, we conclude that the requested report must be withheld in its entirety under section 552.101 of the Government Code.

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).

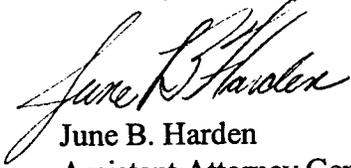
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/seg

Ref: ID# 185119

Enc: Submitted documents

c: Mr. Danny Lovett
Superintendent
High Island Independent School District
P.O. Box 246
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(w/o enclosures)