



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 17, 2005

Ms. Sandra Gentry
Administrative Support II
Baytown Police Department
3200 North Main Street
Baytown, Texas 77521

OR2005-05390

Dear Ms. Gentry:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 226370.

The Baytown Police Department (the "department") received a request for information regarding the arrest of a named individual on a specific date. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Texas Government Code excepts from required public disclosure "information considered to be confidential by law, either constitutional, or by judicial decision." You assert that the requested information is excepted from disclosure under section 552.101 in conjunction with section 58.007 of the Family Code. However, section 58.007 applies only to juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. Because the conduct that is at issue here occurred in 1994, former section 51.14 of the Family Code is the applicable provision. Juvenile law enforcement records pertaining to conduct occurring before January 1, 1996 are governed by the former section 51.14(d), which was continued in effect for that purpose. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2591 (Vernon).

We note that although the conduct at issue here occurred prior to January 1, 1996, the named juvenile stood trial as an adult. Section 51.14(d) expressly provided an exception to confidentiality for records of juvenile offenders who were certified to stand trial as an adult.

See Fam. Code § 51.14(d) (repealed 1995). Accordingly, the submitted information may not be withheld under section 552.101 in conjunction with section 51.14 of the Family Code.

We note that the submitted information contains social security numbers that may be excepted from disclosure under section 552.101 of the Government Code in conjunction with federal law. The 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I), make confidential social security numbers and related records that are obtained or maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See id.* We have no basis for concluding that the social security numbers at issue are confidential under section 405(c)(2)(C)(viii)(I), and therefore excepted from public disclosure under section 552.101 on the basis of that federal provision. We caution, however, that section 552.352 of the Act imposes criminal penalties for the release of confidential information. Prior to releasing any social security number information, you should ensure that no such information was obtained or is maintained by the department pursuant to any provision of law enacted on or after October 1, 1990.

We also note that the submitted information contains Texas motor vehicle record information. Section 552.130 of the Government Code excepts from disclosure information 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.” In accordance with section 552.130, the department must withhold the Texas motor vehicle record information we have marked in the submitted documents.

In summary, the social security numbers included in the submitted information may be confidential under federal law. The Texas motor vehicle record information we have marked must be withheld under section 552.130. 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 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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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,



James A. Person III
Assistant Attorney General
Open Records Division

JAP/sdk

Ref: ID# 226370

Enc. Submitted documents

c: Ms. Gloria G. Molina
4738 Woodford
Baytown, Texas 77521
(w/o enclosures)