



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 23, 2006

Ms. Linda L. Sjogren
Assistant City Attorney
City of San Angelo
P.O. Box 1751
San Angelo, Texas 76902

OR2006-01789

Dear Ms. Sjogren:

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# 243122.

The San Angelo Police Department (the "department") received a request for an incident report pertaining to a specified incident. 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.

You assert that the submitted information is excepted under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses information protected by other statutes. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are confidential under section 58.007 of the Family Code. Section 58.007(c) provides as follows:

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.

Fam. Code § 58.007(c). A child, for purposes of section 58.007, is defined as a person ten years of age or older and under seventeen years of age. *Id.* § 51.02(2)(A). Although you assert that the information in the submitted information is confidential under section 58.007, we note that the submitted information indicates that the juvenile at issue was nine years old at the time of the alleged offense; therefore, the information at issue is not confidential under section 58.007(c) of the Family Code, and the department may not withhold it under section 552.101 of the Government Code on that ground.

We note that the submitted information includes a social security number. Section 552.147 of the Government Code provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. Gov’t Code § 552.147. Therefore, the submitted social security number is subject to section 552.147.¹

However, we note that the submitted information reflects that the requestor is the spouse of the individual to whom some of the submitted information pertains. As such, the requestor may have a special right of access to the social security number. *See* Gov’t Code § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). If the requestor is the authorized representative of her spouse, pursuant to section 552.023, the requestor has a special right of access to information that is otherwise confidential under section 552.147 of the Government Code. To the extent the requestor has a right of access to the information we have marked, the department must release it to her. However, if the requestor is not the authorized representative of her spouse, the marked social security number must be withheld under section 552.147. The remaining 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

¹We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act.

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 Office of the Attorney General 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. 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,



L. Joseph James
Assistant Attorney General
Open Records Division

LJJ/segh

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Enc. Submitted documents

c: Ms. Cheryl Rindeikis
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(w/o enclosures)