



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 16, 2007

Mr. Ronald J. Bounds
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2007-02005

Dear Mr. Bounds:

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# 275503.

The City of Corpus Christi (the "city") received a request for three specified police reports and any other reports that may exist pertaining to the requestor. You state that the department does not have one of the specified reports.¹ You state that the department has released some of the requested information but claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and 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." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. Prior to its repeal by the Seventy-fourth Legislature, section 51.14(d) of the Family Code provided for the confidentiality of juvenile law enforcement records. Law enforcement records pertaining to conduct occurring before January 1, 1996 are governed by

¹We note that the Act does not require a governmental body to disclose information that did not exist at the time the request was received or to prepare new information in response to a request for information. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986).

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). The report you have marked relates to juvenile conduct that occurred before January 1, 1996. Therefore, the report at issue must be withheld in its entirety under section 552.101 of the Government Code in conjunction with former section 51.14 of the Family Code.

You also claim that portions of the remaining information are excepted from disclosure under section 552.130 of the Government Code. This section excepts from public 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. *See* Gov't Code § 552.130(a)(1)-(2). We note, however, that some of the Texas motor vehicle record information relates to the requestor. Section 552.130 protects privacy interests, and the person to whom such information relates has a right of access to such information under section 552.023 of the Government Code. *See id.* § 552.023. Accordingly, the requestor has a right of access to his Texas motor vehicle record information under section 552.023, and the city may not withhold it under section 552.130. The city must withhold the remaining Texas motor vehicle record information, which we have marked under section 552.130 of the Government Code.

You note that the remaining information contains social security numbers of the requestor and another individual. 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. The requestor has a right of access to his social security number pursuant to section 552.023 of the Government Code. *See* Gov't Code § 552.023(b). However, the city must withhold the other social security number, which we have marked, under section 552.147.

In summary, the city must withhold the report you have marked under section 552.101 of the Government Code in conjunction with section 51.14 of the Family Code. The city must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code and the social security number we have marked under section 552.147 of the Government Code. The remaining information must be released to the requestor.

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 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/jww

Ref: ID# 275503

Enc. Submitted documents

c: Mr. Nicholas V. Rothschild
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Dallas, Texas 75204
(w/o enclosures)