



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 11, 2007

Mr. T. Daniel Santee, II
First Assistant City Attorney
City of Abilene
P.O. Box 60
Abilene, Texas 79602-0060

OR2007-08778

Dear Mr. Santee:

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# 287577.

The Abilene Police Department (the "department") received a request for a specified offense report. 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 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. Gov't Code § 552.101. 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 juveniles at issue were five and seven years old, respectively, 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. As you raise no other exceptions to disclosure, the submitted information must be released to the requestor.¹

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

¹We note, however, that the submitted documents contain information that is confidential with respect to the general public. *See* Gov't Code § 552.023. Thus, in the event the department receives another request for this information from someone other than this requestor, the department must again ask this office for a decision whether the information is subject to public disclosure.

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/eeg

Ref: ID# 287577

Enc. Submitted documents

c: Ms. Shannon Wester
650 Genhaven
Abilene, Texas 79603
(w/o enclosures)