



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 7, 2007

Ms. Kelly E. Pagan
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2007-11720

Dear Ms. Pagan:

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# 288792.

The Fort Worth Police Department (the "department") received a request for all call sheets and police reports pertaining to a specified address during a specified time period. You state that you have provided some information to the requestor. You claim that some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information. We have also considered comments submitted by the requestor. See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 58.007 of the Family Code.

¹We note that you have also redacted social security numbers in the submitted information pursuant to section 552.147 of the Government Code. See Gov't Code 552.147(b) (authorizing governmental body to redact living person's social security number without the necessity of requesting decision from attorney general under the Act).

Law enforcement records involving juvenile offenders and relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. Section 58.007(c) provides in pertinent part:

(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.

Id. § 58.007(c). For purposes of section 58.007, “child” means a person who is ten years of age or older and under seventeen years of age. *See* Fam. Code § 51.02(2). You state that incident report numbers 05-036513, 05-047492, and 07-62189 involve juvenile delinquent conduct that occurred after September 1, 1997. It does not appear that any of the exceptions in section 58.007 apply. Therefore, report numbers 05-036513, 05-047492, and 07-62189 and its corresponding call sheet are confidential pursuant to section 58.007(c) of the Family Code and must be withheld under section 552.101 of the Government Code.

You also raise section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. Section 261.201(a) provides as follows:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with [the Family Code] and applicable federal or state law or under rules adopted by an investigating agency:

- (1) a report of alleged or suspected abuse or neglect made under [chapter 261 of the Family Code] and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in

an investigation under [chapter 261 of the Family Code] or in providing services as a result of an investigation.

Fam. Code § 261.201(a). You seek to withhold incident report numbers 06-15147, 06-105933, and 06-109493 under section 261.201. Upon review, we find that some of the submitted information consists of files, reports, records, communications, or working papers used or developed in an investigation under chapter 261 of the Family Code. As you do not indicate that the department has adopted a rule that governs the release of this type of information, we assume that no such rule exists. Given that assumption, we conclude that the department must withhold incident report numbers 06-105933 and 06-109493 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (addressing predecessor statute). However, you have failed to demonstrate that incident report number 06-15147 pertains to an investigation under chapter 261 of alleged or suspected child abuse or neglect as those terms are defined by the Family Code. *See* Fam. Code. §§ 261.001(1), (4) (defining “abuse” and “neglect” for the purposes of chapter 261). Accordingly, you have failed to demonstrate the applicability of section 261.201, and thus, report number 06-15147 may not be withheld under section 552.101 on that basis.

You also raise section 552.101 in conjunction with section 772.218 of the Health and Safety Code. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communication districts. Section 772.218 of the Health and Safety Code applies only to an emergency 9-1-1 district established in accordance with chapter 772. *See* Open Records Decision No.649(1996). This statute makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *Id.* at 2.

You state that the City of Fort Worth is part of an emergency communication district that was established under section 772.218 and inform us that the 9-1-1 callers’ phone numbers and addresses that you have marked were furnished by a service provider. Thus, based on your representations and our review, we determine that the department must withhold the information you have marked pursuant to section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code.

Finally, section 552.130 of the Government Code provides that information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov’t Code § 552.130(a)(1), (2). Accordingly, the department must withhold the Texas motor vehicle record information you have marked in the remaining information under section 552.130 of the Government Code.

In summary, the department must withhold the following in conjunction with section 552.101 of the Government Code: (1) incident report numbers 05-036513, 05-047492, and 07-62189 pursuant to section 58.007 of the Family Code; (2) incident report numbers

06-105933 and 06-109493 in conjunction with section 261.201 of the Family Code; and (3) the 9-1-1 callers' originating telephone numbers and addresses in conjunction with section 772.218 of the Health and Safety Code. The department must also withhold the Texas motor vehicle record information you have marked in the remaining information under section 552.130 of the Government Code. The remaining submitted information must be released.

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).

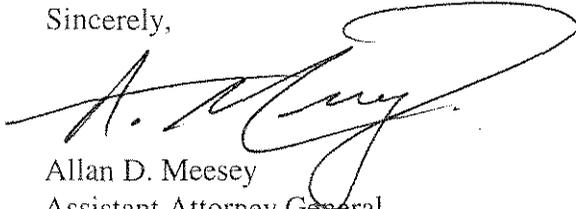
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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 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,

A handwritten signature in black ink, appearing to read "A. Meesey", with a large, sweeping flourish at the end.

Allan D. Meesey
Assistant Attorney General
Open Records Division

ADM/eeg

Ref: ID# 288792

Enc. Submitted documents

c: Mr. Brian Wilsford
4874 Hope Street
Fort Worth, Texas 76114
(w/o enclosures)