



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 9, 2007

Ms. Sylvia McClellan  
Assistant City Attorney  
Criminal Law and Police Section  
City of Dallas  
1400 South Lamar  
Dallas, Texas 75215

OR2007-13144

Dear Ms. McClellan:

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# 291100.

The Dallas Police Department (the "department") received a request for the internal affairs report concerning the complaint filed by a named individual. You claim that a portion of the requested information is excepted from disclosure under sections 552.101, 552.119, and 552.136 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 section encompasses confidentiality provisions such as section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are confidential under section 58.007. The relevant language of section 58.007(c) reads as follows:

(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 Subchapters B, D, and E.

...

(e) Law enforcement records and files concerning a child may be inspected or copied by a juvenile justice agency as that term is defined by Section 58.101, a criminal justice agency as that term is defined by Section 411.082, Government Code, the child, and the child's parent or guardian.

...

(j) Before a child or a child's parent or guardian may inspect or copy a record or file concerning the child under Subsection (e), the custodian of the record or file shall redact:

- (1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child; and
- (2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law.

Act of May 28, 2007, 80<sup>th</sup> Leg., R.S., ch. 879, § 1, 2007 Tex. Sess. Law Serv. 1896 (Vernon) (to be codified at Tex. Fam. Code § 58.007). The information you seek to withhold under section 58.007 consists of an internal affairs investigation concerning a complaint involving a juvenile suspect. Upon review, we find the internal affairs investigation contains juvenile law enforcement records that pertain to conduct that occurred after September 1, 1997. Thus, this information, which we have marked, is subject to section 58.007. We note, however, that the requestor is the mother of the juvenile suspect listed in the information at issue. Under section 58.007(e), the requestor may inspect law enforcement records concerning her own child. Fam. Code § 58.007(e). However, any personally identifiable information concerning other juvenile suspects, offenders, victims, or witnesses must be redacted. *See id.* § 58.007(j)(1). Section 58.007(j) states further that information subject to any other exception to disclosure under the Act or other law must also be redacted. *Id.* § 58.007(j)(2). Accordingly, we will address your argument under section 552.119 of the Government Code

for this information. The remainder of the internal affairs investigation documents, however, are not juvenile law enforcement records and may not be withheld under section 552.101 in conjunction with section 58.007(c).

Section 552.119 of the Government Code provides:

(a) A photograph that depicts a peace officer as defined by Article 2.12, Code of Criminal Procedure, the release of which would endanger the life or physical safety of the officer, is excepted from [required public disclosure] unless:

- (1) the officer is under indictment or charged with an offense by information;
- (2) the officer is a party in a civil service hearing or a case in arbitration; or
- (3) the photograph is introduced as evidence in a judicial proceeding.

(b) A photograph excepted from disclosure under Subsection (a) may be made public only if the peace officer gives written consent to the disclosure.

Gov't Code § 552.119. Under section 552.119, a governmental body must demonstrate, if the documents do not demonstrate on their face, that release of the photograph would endanger the life or physical safety of a peace officer.<sup>1</sup> In this instance, you state both officers are currently assigned to work the streets on patrol and that release of the submitted video images would place the officers in danger of retaliatory actions and harassment by criminal offenders. Because the officers regularly patrol the streets while engaging in law enforcement duties, they are easily identifiable by members of the community. Accordingly, we determine that the department has failed to demonstrate how the release of the images of police officers contained in the submitted video would endanger the life or physical safety of these officers. Therefore, the images of police officers contained in the submitted video may not be withheld under section 552.119 of the Government Code.

You assert that some of the remaining information is excepted under section 552.136 of the Government Code. Section 552.136(b) states that “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov't Code § 552.136. You inform us that an employee's identification number is the same number used for credit union bank accounts that belong to the City of Dallas. Based on this

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<sup>1</sup>“Peace officer” is defined by article 2.12 of the Code of Criminal Procedure.

representation, we conclude that the department must withhold the identification numbers you have marked under section 552.136 of the Government Code.

In summary, the department must withhold the identification numbers you have marked under section 552.136 of the Government Code. The remaining 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).

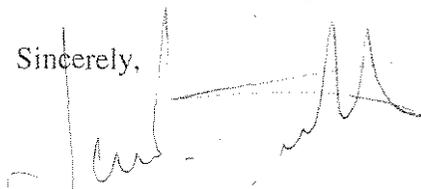
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records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

Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/jh

Ref: ID# 291100

Enc. Submitted documents

c: Ms. Antonieta Aranda  
909 Avon Street  
Dallas, Texas 75211  
(w/o enclosures)