



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 19, 2007

Mr. Robert R. Ray  
Assistant City Attorney  
City of Longview  
P.O. Box 1952  
Longview, Texas 75606

OR2007-15201

Dear Mr. Ray:

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# 293726.

The City of Longview (the "city") received a request for information pertaining to a specified incident. You claim that the requested information is 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 section 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. In this regard, 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 Subchapter B.

Fam. Code § 58.007(c). Law enforcement records relating to juvenile criminal conduct that occurred on or after September 1, 1997 are confidential under section 58.007 of the Family Code. However, section 58.007 is inapplicable when an incident does not involve a suspect or offender who is a “child” as defined by section 51.02 of the Family Code. A “child” is a person who is:

(A) ten years of age or older and under 17 years of age; or

(B) seventeen years of age or older and under 18 years of age who is alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision as a result of acts committed before becoming 17 years of age.

*Id.* § 51.02(2). Here, the individual identified as the alleged offender in the submitted report was six years old at the time of the incident. Thus, the individual is not a “child” for purposes of the Juvenile Justice Code, title 3 of the Family Code. We therefore find the submitted report is not a juvenile law enforcement record made confidential under section 58.007 of the Family Code, and may not be withheld under section 552.101 on that basis.<sup>1</sup>

Section 552.101 also encompasses section 261.201(a) of the Family Code, which 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 this 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 this chapter and the identity of the person making the report; and

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<sup>1</sup>When the Seventy-fourth Legislature enacted section 58.007, it chose to limit the age of a child affected by this statute to the age range in section 51.02. *See* Fam. Code § 51.02(2). In 1997, the Seventy-fifth Legislature amended the effective date of section 58.007. However, it did not change the definition of a child for purposes of this statute. Our office must abide by the plain and unambiguous language of section 58.007 passed by the Legislature. *See Fitzgerald v. Advanced Spine Fixation Sys., Inc.*, 996 S.W.2d 864, 865-66 (Tex. 1999) (stating that a court construes a statute by looking to the plain meaning of the statute’s language).

(2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

*Id.* § 261.201(a). The submitted report pertains to the alleged offense of assault. You assert that the submitted report relates to the alleged abuse or neglect of a child. However, upon review, you do not establish, nor do the documents reflect, that the submitted report was used or developed by the city or any other appropriate agency in an investigation under chapter 261 of alleged or suspected child abuse or neglect. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies). Thus, the city may not withhold the submitted report under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

You also claim section 552.130 for a portion of the submitted information. Section 552.130 of the Government Code exempts from 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.” Gov’t Code § 552.130. Accordingly, the city must withhold the Texas motor vehicle record information you have marked under section 552.130 of the Government Code.

Finally, you claim section 552.147 for a portion of the remaining information. Section 552.147 of the Government Code provides “[t]he social security number of a living person is excepted from” required public disclosure under the Act. *Id.* § 552.147. The social security numbers you have marked may be withheld under section 552.147 of the Government Code.<sup>2</sup>

In summary, the city must withhold the Texas motor vehicle record information you have marked under section 552.130. The city may withhold the social security numbers you have marked under section 552.147. 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

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<sup>2</sup>We 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.

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,



Paige Savoie  
Assistant Attorney General  
Open Records Division

PS/ma

Ref: ID# 293726

Enc. Submitted documents

c: Ms. Maggie Souza  
320 East Methvin Street  
Longview, Texas 75604  
(w/o enclosures)