



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 19, 2008

Ms. Ylise Janssen
Senior School Law Attorney
Austin Independent School District
1111 West Sixth Street
Austin, Texas 78703-5399

OR2008-02220

Dear Ms. Janssen:

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# 302709.

The Austin Independent School District (the "district") received a request for police records concerning the requestor's son. 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 public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information that other statutes make confidential. Section 261.201(a) of the Family Code 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

(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.

Fam. Code § 261.201(a). You indicate that Exhibit F relates to an investigation of alleged or suspected abuse of a child conducted by the district's police department and is therefore subject to section 261.201. *See* Fam. Code § 261.001(1) (defining "abuse" for purposes of chapter 261 of the Family Code). Based on this representation and our review, we find that Exhibit F is within the scope of section 261.201 of the Family Code. You have not indicated that the district's police department has adopted a rule that governs the release of this type of information; therefore, we assume that no such regulation exists. Given this assumption, we conclude that Exhibit F is confidential pursuant to section 261.201 of the Family Code and must therefore be withheld in its entirety pursuant to section 552.101 of the Government Code.¹

You also raise section 552.101 in conjunction with section 58.007 of the Family Code. Section 58.007 provides in pertinent part 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, 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

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

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.

Fam. Code § 58.007(c), (e), (j). We have reviewed the remaining submitted information and find that it involves allegations of juvenile conduct in violation of penal statutes that occurred after September 1, 1997. We note that, in order for section 58.007(c) to apply, the juvenile offender must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See id.* § 51.02(2) (defining "child" for purposes of title 3 of Family Code). Because the requestor's juvenile child is not listed as a suspect, offender, or arrestee in the reports within Exhibits D and E, these exhibits must be withheld in their entirety under section 552.101 in conjunction with section 58.007(c). However, the requestor is the mother of a juvenile suspect listed in the police reports contained within Exhibits B and C. Under section 58.007(e), the requestor may inspect or copy law enforcement records concerning her own child. *Id.* § 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) also states the a governmental body must redact any information that is excepted from disclosure under the Act. *See id.* § 58.007(j)(2). Accordingly, the reports in Exhibits B and C must be released to the requestor pursuant to section 58.007(e) of the Family Code. In releasing Exhibit C, the district must redact any personally identifiable information concerning other juvenile suspects, offenders, victims, or witnesses from this information. We note that portions of Exhibits B and C are subject to section 552.130 of the Government Code. Thus, we will address this exception.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state.² *See Gov't Code* § 552.130 (a)(1). We have marked the Texas driver's license information that the district must withhold under section 552.130.

²The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See Open Records Decision* Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the district must withhold Exhibit F under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.³ The district must withhold Exhibits D and E under section 552.101 in conjunction with section 58.007(c) of the Family Code. The district must also withhold information we have marked under section 552.130 of the Government Code. The remaining information must be released.⁴ However, in releasing Exhibit C, any personally identifiable information concerning juvenile suspects, offenders, victims, or witnesses other than the requestor's child must be redacted.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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).

³We note that if the Texas Department of Family and Protective Services has created a file on this case, the child's parent(s) may have the statutory right to review the file. *See* Fam. Code § 261.201(g).

⁴We note that the submitted information contains social security numbers. 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. However, we also note that the requestor has a right of access to her son's social security number, and it may not be withheld from her under section 552.147. *See generally* Gov't Code § 552.023 (b) (governmental body may not deny access to person to whom information relates, or that person's representative, solely on grounds that information is considered confidential by privacy principles).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge 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# 302709

Enc. Submitted documents

c: Ms. Frances Barraza
6443 Old Harbor Lane
Austin, Texas 78739
(w/o enclosures)