



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 7, 2008

Mr. Gregory Alicie
Open-Records-Specialist
Baytown Police Department
3200 North Main Street
Baytown, Texas 77521

OR2008-06246

Dear Mr. Alicie:

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# 309733.

The Baytown Police Department (the "department") received a request for a specific police report. You claim that the submitted 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." Gov't Code § 552.101. This section encompasses information protected by other statutes, 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 58.007 reads as follows:

(c) . . . 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 . . . 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 disclosure under Chapter 552, Government Code, or other law.

Fam. Code § 58.007. 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). The submitted report involves juvenile conduct that occurred after September 1, 1997. However, the request is from the parent of the juvenile suspect. Under section 58.007(e), the requestor may inspect law enforcement records concerning her child. Fam. Code § 58.007(e). However, any personally identifiable information concerning other juvenile suspects, offenders, victims, or witnesses must be redacted. *Id.* § 58.007(j)(1). Section 58.007(j) also provides that information subject to any other exception to disclosure under the Act or other law must also be redacted. *See id.* § 58.007(j)(2). Accordingly, we will consider your remaining argument against disclosure of some of the submitted information.

Section 552.101 also encompasses section 143.089 of the Local Government Code, which relates to civil service cities. Section 143.089 is applicable only to information contained in the personnel file of a police officer or fire fighter of a civil service municipality. *See* Local Gov't Code § 143.089(a), (g); *City of San Antonio v. Texas Attorney General*, 851 S.W.2d 946 (Tex. App. – Austin 1993, writ denied); Attorney General Opinion JC-0257 at 6-7 (2000); Open Records Decision No. 562 (1990). You state that a portion of the submitted information, which you have marked in yellow, is an officer's personal information that is confidential under section 143.089(g). However, the information at issue is not contained in the personnel file of the officer at issue, and therefore may not be withheld

under section 552.101 of the Government Code in conjunction with section 143.089(g) of the Local Government Code.

However, the information you have marked in yellow may be excepted from disclosure under section 552.1175 of the Government Code.¹ Section 552.1175 provides in pertinent part:

(b) Information that relates to the home address, home telephone number, or social security number of [a peace officer as defined by article 2.12 of the Code of Criminal Procedure], or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(b). If the peace officer at issue notifies the department that he chooses to keep his personal information confidential in accordance with section 552.1175(b)(2), the department must withhold his personal information pursuant to section 552.1175. If no election is made, the department must release this information.

The submitted information also contains Texas motor vehicle record information. 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 [or] a motor vehicle title or registration issued by an agency of this state[.]" Gov't Code § 552.130(a)(1), (2). The department must withhold the information you have marked in pink under section 552.130 of the Government Code.

In summary, pursuant to section 58.007(j) of the Family Code, the department must withhold any information that identifies or tends to identify a juvenile suspect, offender, victim, or witness other than the requestor's child. The department must withhold the peace officer's personal information under section 552.1175 if the peace officer notifies the department that he chooses to keep his personal information confidential. The department must also withhold the information you have marked in pink under section 552.130 of the Government

¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Code. The remaining information must be released pursuant to section 58.007(e) of the Family Code.²

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).

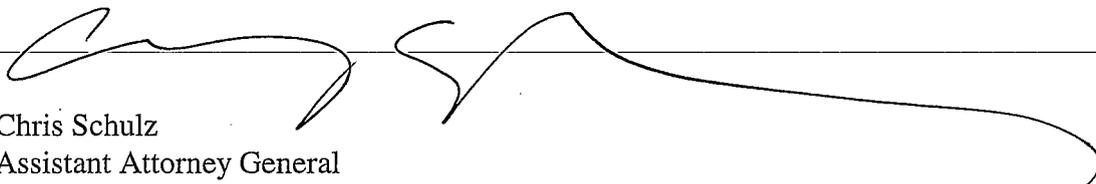
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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.

²We note that the information being released contains full and partial 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. Gov't Code § 552.147(b).

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 'Chris Schulz', is written across the page. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Chris Schulz
Assistant Attorney General
Open Records Division

CS/jb

Ref: ID# 309733

Enc. Submitted documents

c: Ms. Carrie Trawick
19711 Crosby Eastgate
Crosby, Texas 77532
(w/o enclosures)