



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 19, 2008

Ms. Marie Feutz
City Secretary
Leon Valley, Texas
6400 El Verde Road
Leon Valley, Texas 78238

OR2008-06767

Dear Ms. Feutz:

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# 311929.

The City of Leon Valley (the "city") received a request for all police reports filed by the requestor for 6911 Forest Meadow and 6313 Evers Road, Apt. 1103 during 2007-2008. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that some of the submitted information, which we have marked, is not responsive to the instant request for information. The request seeks incident reports created during 2007 and 2008 pertaining to two specified addresses in which the requestor was the reportee. Accordingly, any information created during this time period at these addresses in which the requestor is not listed as the reportee is not responsive to the current request. The city need not release nonresponsive information in response to this request, and this ruling will not address that information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed).

Next, we note that you have previously sought a decision from this office with respect to incident report numbers 200708470, 200708822, 200708832, 200708845, 200708846, 200708889, 200708953, 200709083, and 200709775. In Open Records Letter No. 2008-04565 (2008), we concluded that the incident report numbers listed above involve

an identified juvenile as a suspect or offender and are therefore subject to section 58.007. However, we noted that the requestor is the mother of the juvenile suspect in incident report number 200709775. Accordingly, pursuant to section 58.007(e), the requestor has a right of access to incident report number 200709775 subject to the redactions required by section 58.007(j)(1). *See* Fam. Code § 58.007(j)(1). We also concluded that incident report numbers 200708470, 200708822, 200708832, 200708845, 200708846, 200708889, 200708953, and 200709083 must be withheld in their entirety under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. Therefore, assuming the four criteria for a “previous determination” established by this office in Open Records Decision No. 673 (2001) have been met, we conclude we need not revisit the question of required public disclosure of incident report numbers 200708470, 200708822, 200708832, 200708845, 200708846, 200708889, 200708953, 200709083, and 200709775.¹ Accordingly, the city must withhold or release these reports based on Open Records Letter No. 2008-04565 (2008). We will address your arguments for the remaining 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. Section 552.101 encompasses information protected by other statutes, such as section 58.007 of the Family Code. The relevant language of section 58.007 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

¹The four criteria for this type of “previous determination” are (1) the records or information at issue are precisely the same records or information that were previously submitted to this office pursuant to section 552.301(e)(1)(D) of the Government Code; (2) the governmental body which received the request for the records or information is the same governmental body that previously requested and received a ruling from the attorney general; (3) the attorney general’s prior ruling concluded that the precise records or information are or are not excepted from disclosure under the Act; (4) and the law, facts, and circumstances on which the prior attorney general ruling was based have not changed since the issuance of the ruling. *See* Open Records Decision No. 673 (2001).

(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 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). Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 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 at the time of the reported conduct. *See id.* § 51.02(2); *see also id.* §§ 58.007, 51.03 (defining "delinquent conduct" and "conduct indicating a need for supervision" for purposes of section 58.007). This conduct includes reports of juvenile runaways. *See id.* § 51.03(b)(3) (defining "conduct indicating a need for supervision" to include "the voluntary absence of a child from the child's home without the consent of the child's parent or guardian for a substantial length of time or without intent to return"). However, we note section 58.007 is not applicable to information that relates to a juvenile as a complainant, victim, witness, or other involved party and not as a suspect or offender. Furthermore, under section 58.007(e), a parent may inspect law enforcement records concerning his or her own child. Fam. Code § 58.007(e). Upon review, we find that incident report numbers 200800289, 200801498, and 200801683 involve an identified juvenile as a suspect or offender and are therefore subject to section 58.007. However, we note that the requestor is the mother of a juvenile suspect in incident report numbers 200801498 and 200801683. Accordingly, pursuant to section 58.007(e), the requestor has a right of access to these incident reports. We note that section 58.007(j)(1) requires the redaction of any personally identifiable information concerning other juvenile suspects, offenders, victims, or witnesses. *See* Fam. Code § 58.007(j)(1). Subject to these redactions, incident report numbers 200801498 and 200801683 must be released to the requestor as you

raise no further exceptions against their disclosure. However, as the requestor possesses no right of access to incident report number 200800289 pursuant to section 58.007(e), this incident report must be withheld in its entirety under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

You state that incident report number 200800922 contains information that is subject to section 552.130 of the Government Code, which 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). Therefore, the city must withhold the Texas motor vehicle record information we have marked under section 552.130. We note that you have marked a driver's license number issued by the state of Florida, not Texas; section 552.130 is therefore inapplicable to this information, and it may not be withheld from disclosure on that basis.

In summary: (1) the city must withhold or release incident report numbers 200708470, 200708822, 200708832, 200708845, 200708846, 200708889, 200708953, 200709083, and 200709775 based on Open Records Letter No. 2008-04565 (2008); (2) subject to the redaction of any personally identifiable information concerning other juvenile suspects, offenders, victims, or witnesses pursuant to section 58.007(j)(1), the city must release incident report numbers 200801498 and 200801683 to the requestor under section 58.007(e) of the Family Code; (3) the city must withhold incident report number 200800289 in its entirety pursuant to section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code; and the city must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code. The remaining information that is responsive to this request 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 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.

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,



Jessica J. Maloney
Assistant Attorney General
Open Records Division

JJM/jh

Ref: ID# 311929

Enc. Submitted documents

c: Ms. Debra D. Winningham
4980 USAA Boulevard, #916
Leon Valley, Texas 78240
(w/o enclosures)