



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 19, 2008

Ms. Sandy Dudley
Records Coordinator
City of Cleburne
P.O. Box 677
Cleburne, Texas 76033-0677

OR2008-06809

Dear Ms. Dudley:

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# 310873.

The City of Cleburne (the "city") received a request for a police report pertaining to a specified incident. We understand you to claim that the submitted 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 information you have submitted.

Initially, we note that portions of the requested information are subject to a previous ruling issued by this office. On April 9, 2008, this office issued Open Records Letter No. 2008-04768 (2008), in which we ruled that the city must withhold the identifying information of a juvenile offender under section 552.101 in conjunction with common-law privacy and Texas motor vehicle record information under section 552.130 of the Government Code. We presume that the pertinent facts and circumstances have not changed since the issuance of that prior ruling. Thus, we determine that the city may continue to rely on our ruling in Open Records Letter No. 2008-04768 as a previous determination and withhold or release the requested information under section 552.108 in accordance with that decision. *See* Open Records Decision No. 673 (2001) (governmental body may rely on previous determination when 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); 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; the prior ruling concluded that the precise records or information are or are not excepted from disclosure under the Act; and the law, facts, and circumstances on which the prior ruling was based have not changed since the issuance of the ruling). We will address your arguments for the submitted information that was not the subject of the previous ruling.

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. Section 58.007(c) reads as follows:

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. 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). 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, offender, or defendant. Upon review, we find that the submitted information does not list a juvenile as a suspect or offender for the incident that is the basis of the report. Therefore, we find that this report is not a juvenile law enforcement record and no portion of it may be withheld under section 552.101 in conjunction with section 58.007(c) of the Family Code.

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). Upon review, we find that the city must withhold the Texas motor vehicle record information in the remaining information under section 552.130.

Finally, you assert that portions of the remaining information are excepted under section 552.147 of the Government Code, which provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. *Id.* § 552.147(a). We agree that the city may withhold the social security numbers in the remaining information under section 552.147.¹

In summary, the city may continue to rely on Open Records Letter No. 2008-04768 for the information that was at issue in that request. For the information not subject to the prior ruling, the city must withhold the Texas motor vehicle record information in the remaining information and may withhold the social security numbers under section 552.147 of the Government Code. The remaining 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 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

¹We 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.

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,



Melanie J. Villars
Assistant Attorney General
Open Records Division

MJV/jh

Ref: ID# 310873

Enc. Submitted documents

c: Ms. Mandy Holleman
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(w/o enclosures)