



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 26, 2008

Mr. Ricardo Morado
Roerig, Oliveira, & Fisher, L.L.P.
855 West Price Road, Suite 9
Brownsville, Texas 78520

OR2008-08677

Dear Mr. Morado:

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# 314125.

The Rio Hondo Independent School District (the "district"), which you represent, received a request for eight categories of information pertaining to various district matters, including all police reports from a specified fifteen-day period. You state that you are releasing the majority of the requested information to the requestor. You claim that the submitted police reports are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted reports. We have also considered comments received from the requestor. *See* Gov't Code § 552.304 (interested party may submit written comments concerning availability of requested 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. Juvenile law enforcement records relating to delinquent conduct or conduct in need of supervision that occurred on or after September 1, 1997 are confidential under section 58.007. 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

(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.

Fam. Code § 58.007(c). 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). In this instance, you argue that all four of the submitted police reports are confidential under section 58.007(c). Upon review, we find that three of the submitted reports, which we have marked, pertain to the delinquent conduct of a fifteen-year old. These reports are confidential under section 58.007(c) of the Family Code. Although the requestor argues that he is entitled to each police report's "front-page" information pursuant to section 552.108(c) of the Government Code, this section states only that "front-page" information may not be withheld under the law enforcement exceptions to disclosure found in sections 552.108(a) and 552.108(b). *See Gov't Code* § 552.108(c). Section 552.108(c) has no bearing on the confidentiality of juvenile law enforcement records subject to section 58.007(c) of the Family Code. Accordingly, the reports we have marked must be withheld in their entirety under section 552.101 of the Government Code.

As to the remaining police report at issue, you do not explain, and report No. J-08-037 does not reflect, how the conduct at issue in the report constitutes juvenile delinquent conduct or conduct indicating a need for supervision. *See id.* § 51.03 (defining "delinquent conduct" and "conduct indicating a need for supervision" for purposes of section 58.007). Furthermore, the child at issue in this report is under ten years of age. We therefore find that section 58.007(c) is not applicable to report No. J-08-037, and it may not be withheld under section 552.101 on this basis. As no other exceptions are raised, report No. J-08-037 must be released to the requestor.

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). If the governmental body does not file suit over 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,


Reg Hargrove
Assistant Attorney General
Open Records Division

RJH/eeg

Ref: ID# 314125

Enc. Submitted documents

c: Mr. Hoss Lozano
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(w/o enclosures)