



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 26, 2009

Mr. Cary Bovey
Bovey & Bojorquez, LLP
12325 Hymeadow Drive, Suite 2-100
Austin, Texas 78750

OR2009-03961

Dear Mr. Bovey:

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# 338191.

The Navasota Police Department (the "department"), which you represent, received a request for all reports between August 1998 and February 27, 2008 in which the requestor is the reporting party or complainant. You claim portions of the submitted complaint disposition reports are exempted 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.

Section 552.101 exempts from public 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 made confidential by other statutes, such as section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. The relevant language of section 58.007 reads:

(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.

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). You claim several of the submitted reports are confidential under section 58.007(c). Report numbers 99-01689, 01-0006001, 01-0006268, and 03-0006729 involve juveniles cited for disorderly conduct. Thus, we find these reports involve juvenile delinquent conduct. *See id.* § 51.03(a) (defining "juvenile delinquent conduct" for the purposes of section 58.007). It does not appear any of the exceptions in section 58.007 of the Family Code apply. Therefore, we find report numbers 99-01689, 01-0006001, 01-0006268, and 03-0006729 are confidential pursuant to section 58.007(c) of the Family Code and must be withheld under section 552.101 of the Government Code. Upon review of your arguments and the remaining reports you seek to withhold under section 58.007(c), however, we find you have failed to demonstrate how these remaining reports involve juvenile delinquent conduct or conduct in need of supervision as defined by the Family Code. *See id.* § 51.03(a), (b). Therefore, we conclude report numbers 98-04703, 99-04429, 01-0002409, 01-0005388, 01-0006040, 02-0000268, 02-0002069, 02-0002155, 03-0000785, 04-0000607, 06-0006698, and 07-0007212 may not be withheld under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. As you have claimed no other exceptions to disclosure for these reports, they must be released.

You assert portions of the remaining information are excepted under section 552.130 of the Government Code, which provides 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 department must withhold the Texas motor vehicle record information you have marked, and the additional information we have marked, under section 552.130 of the Government Code.

We note the remaining information contains insurance policy numbers. Section 552.136 of the Government Code provides:

- (a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile

identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

(1) obtain money, goods, services, or another thing of value; or

(2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

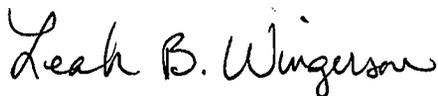
Id. § 552.136. We conclude the insurance policy numbers we have marked constitute access device numbers for purposes of section 552.136. Thus, the department must withhold the marked insurance policy numbers under section 552.136 of the Government Code.

In summary, the department must withhold report numbers 99-01689, 01-0006001, 01-0006268, and 03-0006729 under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code; the marked Texas motor vehicle record information under section 552.130 of the Government Code; and the marked insurance policy numbers under section 552.136 of the Government Code. The remaining information must be released.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/cc

Ref: ID# 338191

Enc. Submitted documents

cc: Requestor
(w/o enclosures)