

**STATE OF TENNESSEE  
OFFICE OF THE ATTORNEY GENERAL**

**August 25, 2015**

**Opinion No. 15-65**

**Authority of City Council to Subpoena TBI Investigative Records**

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**Question**

Does a city council with subpoena power under its charter have the authority to issue a subpoena for investigative records of the Tennessee Bureau of Investigation?

**Opinion**

No.

**ANALYSIS**

You have asked whether a city council with subpoena power under its charter has the authority to issue a subpoena for investigative records of the Tennessee Bureau of Investigation. Tennessee Code Annotated § 10-7-504(a)(2)(A) provides that “[a]ll investigative records of the Tennessee bureau of investigation . . . shall be treated as confidential and shall not be open to inspection by members of the public.” Such information shall be disclosed to the public “only in compliance with a subpoena or an order *of a court of record*.” *Id.* (emphasis added).

As a matter of syntax, the italicized prepositional phrase—“of a court of record”—functions as an adjective in § 10-7-504(a)(2)(A). Thus, the answer to the question depends on whether the adjectival phrase “of a court of record” modifies both its antecedent nouns, i.e., “subpoena” and “order,” or whether it modifies only “order.”

A statute’s plain meaning must be enforced, and the “meaning of a statute will typically heed the commands of its punctuation.” *U.S. Nat. Bank of Oregon v. Indep. Ins. Agents of Am., Inc.*, 508 U.S. 439, 454 (1993). The applicable statute provides that TBI investigative records may be disclosed “only in compliance with a subpoena or an order of a court of record.” “Subpoena” and “order” are both nouns antecedent to the adjectival phrase “of a court of record.” The two antecedent nouns are connected by the conjunction “or.” There is no comma separating the two antecedent nouns. If there were a comma after “subpoena” to separate it from the rest of the sentence, then “or” would be properly read as a disjunctive rather than as a coordinating conjunction, and the adjectival phrase would then properly be read to modify only “order.” But since there is no comma separating the two nouns, “or” functions grammatically as a coordinating conjunction, tying the two antecedent nouns together and requiring that the adjectival phrase be read as modifying *both* its antecedent nouns. See *Mitsui Machinery Distribution, Inc. v. The Chase*

*Manhattan Leasing Company, Inc.*, No. B14-93-003950-CV, 1994 Tex. App. LEXIS 3097, at \*10-11 (Tex. Ct. App. Dec. 19, 1994). Accordingly, the plain meaning of the statute is that TBI investigative records may be disclosed to the public only in compliance with a subpoena of a court of record or an order of a court of record.

In sum, the punctuation in Tenn. Code Ann. § 10-7-504(a)(2)(A)—namely the absence of a comma to separate “subpoena” from the rest of the sentence—requires that § 10-7-504(a)(2)(A) be read to provide that investigative records of the TBI are subject to disclosure only in compliance with a *subpoena of a court of record* or an *order of a court of record*. A city council is not a court of record. Therefore, a subpoena issued by a city council would not satisfy the statutory requirements for subpoena for investigative records of the TBI. Put another way, a city council has no authority to subpoena investigative records of the TBI pursuant to Tenn. Code Ann. § 10-7-504(a)(2)(A).

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