



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 7, 1998

Mr. D. Craig Wood
Jeffers & Banack, Incorporated
Suite 900
Trinity Plaza II
745 East Mulberry
San Antonio, Texas 78212-3166

OR98-1887

Dear Mr. Wood:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 117922.

The Northside Independent School District (the "district"), which you represent, received a request for the driving records of all of the district's bus drivers. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and have reviewed the representative sample documents you have submitted.²

You raise section 552.101 in conjunction with chapter 730 of the Transportation Code and section 2721 of title 18 of the United States Code. Section 2721(a) provides that "a State department of motor vehicles . . . shall not knowingly disclose or otherwise make available to any person or entity personal information about any individual obtained by the department in connection with a motor vehicle record." 18 U.S.C. § 2721(a). However, personal information may be disclosed "[f]or any other use specifically authorized under the law of the State that holds the record, if such use is related to the operation of a motor vehicle or public safety." 18 U.S.C. § 2721(b)(14). Section 552.130 of the Texas Open Records Act governs the release and use of information obtained from motor vehicle records. Section 552.130 provides as follows:

¹Section 552.101 excepts from required public disclosure information that is considered confidential by law, including statutory law.

²In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach and, therefore, does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(a) Information is excepted from [required public disclosure] if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state;
- (2) a motor vehicle title or registration issued by an agency of this state; or
- (3) a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.

(b) Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

The Seventy-fifth Legislature added chapter 730 to the Transportation Code.³ The stated purpose of chapter 730 of the Transportation Code is "to implement 18 U.S.C. Chapter 123 and to protect the interest of an individual in the individual's personal privacy by prohibiting the disclosure and use of personal information contained in motor vehicle records, except as authorized by the individual or by law." Transp. Code § 730.002. Section 730.004 prohibits the disclosure of personal information about any person obtained by an agency in connection with a motor vehicle record.

In this instance, we believe that the district is an "agency," as defined by section 730.003(1) of the Transportation Code, that compiles or maintains motor vehicle records. *See* Transp. Code § 730.003(4) (defining "motor vehicle record"). In its definition of "motor vehicle record," section 730.003(4) of the Transportation Code, however, expressly excludes records that pertain to a motor carrier. The term "motor carrier" means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more vehicles that transport persons or cargo over a road or highway in this state. Transp. Code § 643.001. We believe that under these circumstances, persons who drive school buses for the district are "motor carriers," and thus are outside the ambit of section 552.130. *See* Gov't Code § 552.130(b). Therefore, we conclude that the district may not withhold the records at issue under section 552.101 or 552.130 of the Government Code in conjunction with section 730.004 of the Transportation Code.

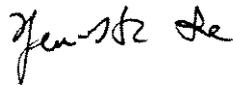
We note, however, that some of the information which you submitted for our review may be protected from disclosure under section 552.117 of the Government Code. Section 552.117(1) excepts from public disclosure information relating to the home address, home

³Act of May 29, 1997, H.B. 1069, 75th Leg., R.S.

telephone number, and social security number of a current or former government employee or official, as well as information revealing whether that individual has family members. Section 552.117(1) requires you to withhold this information for an official, employee, or former employee who requested that this information be kept confidential under section 552.024. *See* Open Records Decision Nos. 622 (1994), 455 (1987). You may not, however, withhold this information if the employee had not made a request for confidentiality under section 552.024 at the time the request for this information was made. Whether a particular piece of information is public must be determined at the time the request for it is made. Open Records Decision No. 530 (1989) at 5.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref.: ID# 117922

Enclosures: Submitted documents

cc: Ms. Marilyn Moritz
Reporter
KSAT-12 News
1408 N. St. Mary's
San Antonio, Texas 78215
(w/o enclosures)