ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 11, 2006

Mr. Ron G. MacFarlane, Jr.
Dealey, Zimmerman, Clark, Malouf & MacFarlane, P.C.
3131 Turtle Creek Boulevard, Suite 1201
Dallas, Texas 75219-5415

OR2006-03584

Dear Mr. MacFarlane:

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# 246200.

The City of Cedar Hill (the "city"), which you represent, received a request for five specific reports and all other reports involving the requestor's son. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted 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." Section 552.101 encompasses section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007 of the Family Code. Section 58.007(c) provides in pertinent part 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.

Fam. Code § 58.007(c). Section 51.02(2)(A) defines "child" as a person who is ten years of age or older and under seventeen years of age. Upon review of Exhibit B, we agree that most of the submitted reports are law enforcement records of a juvenile engaged delinquent conduct or conduct indicating the need for supervision that occurred after September 1, 1997. *See* Fam. Code § 51.03 (defining "delinquent conduct" and "conduct indicating a need for supervision"). Accordingly, the city must withhold these reports, which we have marked, from disclosure under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. However, section 58.007 is only applicable to records that pertain to a juvenile as a suspect or offender, and not as a complainant, victim, witness, or other involved party. Report number 04-002212 lists the juvenile at issue as a witness. Thus, report number 04-002212 may not be withheld under section 58.007 of the Family Code.

You also claim that report number 04-002212 contains confidential criminal history record information ("CHRI"). Section 552.101 also encompasses confidentiality relating to CHRI generated by the National Crime Information Center or by the Texas Crime Information Center. Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety ("DPS") maintains, except that the DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov't Code § 411.083. Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for a criminal justice purpose. *Id.* § 411.089(b)(1). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release CHRI except as provided by chapter 411. *See generally id.* §§ 411.090 - .127. Furthermore, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F. Upon review, we find that report number 04-002212 does not contain confidential CHRI protected under chapter 411; accordingly, report number 04-002212 may not be withheld on that basis.

We note that report number 04-002212 contains Texas driver's license numbers. Section 552.130 of the Government Code excepts from disclosure information that "relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state." Gov't Code § 552.130. Accordingly, the city must withhold the Texas driver's license numbers we have marked in report 04-002212 pursuant to section 552.130.

In summary, we have marked the reports that the city must withhold from disclosure under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. The city must withhold the Texas driver's license numbers we have marked in report 04-002212 pursuant to section 552.130. The remaining information in report number 04-002212 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 appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, 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).

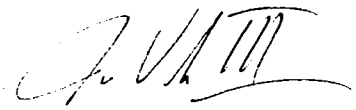
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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 appeal 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,



José Vela III
Assistant Attorney General
Open Records Division

JV/krl

Ref: ID# 246200

Enc. Submitted documents

c: Ms. Eyvonne Terrell
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Cedar Hill, Texas 75104
(w/o enclosures)