



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 6, 2009

Mr. Jason Day
City of Royse City
P.O. Box 638
Royse City, Texas 75189

OR2009-09238

Dear Mr. Day:

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# 352718 (RCCA09-0045).

The City of Royse City (the "city") received a request for information pertaining to a named individual. You claim that the submitted information is excepted 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 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. This section encompasses confidentiality provisions such as 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. For purposes of section 58.007, "child" means a person who is ten years of age or older and under seventeen years of age. *See* Fam. Code § 51.02(2). Section 58.007 provides in relevant part:

(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.

Id. § 58.007(c). Report number 01-07-C0153 pertains to a report of a juvenile delinquent conduct that occurred after September 1, 1997. This conduct is within the scope of section 58.007. *See id.* § 51.03(a). Thus, section 58.007(c) is applicable to report number 01-07-C0153. Accordingly, the city must withhold report number 01-07-C0153 under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

Section 552.101 also encompasses information section 261.201(a) of the Family Code, which provides as follows:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Id. § 261.201. You assert that report numbers 09-04-0063 and 08-01-0067 consist of files, reports, records, communications, or working papers used or developed in investigations under chapter 261 and, thus, this information is within the scope of section 261.201 of the Family Code. *See id.* § 261.001(1), (4) (defining "abuse" and "neglect" for purposes of Family Code ch. 261); *see also id.* § 101.003(a) (defining "child" for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). You have not indicated that the city has adopted a rule that governs the release of this type of information. Therefore, we assume that no such regulation exists. Given that assumption, report numbers 09-04-0063 and 08-01-0067 are confidential pursuant to section 261.201 of the Family Code and the city must withhold them from disclosure under section 552.101 of the Government Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

Finally, you assert some of the remaining submitted information is excepted from disclosure pursuant to section 552.130 of the Government Code. Section 552.130 excepts from disclosure information relating to a driver's license or permit issued by an agency of this state. See Gov't Code § 552.130(a)(1). We note that the purpose of section 552.130 is to protect the privacy interests of individuals. Because the right of privacy lapses at death, Texas motor vehicle record information that pertains to a deceased individual may not be withheld under section 552.130. See *Moore v. Charles B. Pierce Film Enterprises, Inc.*, 589 S.W.2d 489, 491 (Tex. Civ. App.—Texarkana 1979, writ ref'd n.r.e.) (Texas does not recognize relational or derivative right of privacy); see also Attorney General Opinions JM-229 (1984); H-917 (1976); Open Records Decision No. 272 at 1 (1981). Some of the Texas motor vehicle record information you marked pertains to a deceased individual. Therefore, the city may not withhold this information, which we have identified, under section 552.130 of the Government Code. The remaining Texas motor vehicle record information you marked, however, must be withheld under section 552.130.

In summary, the city must withhold report number 01-07-C0153 under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code, and report numbers 09-04-0063 and 08-01-0067 pursuant to section 261.201 of the Family Code and in conjunction with section 552.101. With the exception of the Texas motor vehicle record information that pertains to a deceased individual, the city must withhold the Texas motor vehicle information you marked under section 552.130. 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,



Paige Savoie
Assistant Attorney General
Open Records Division

PS/eeg

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Enc. Submitted documents

cc: Requestor
(w/o enclosures)