



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 14, 2009

Ms. Linda Hight
Records Coordinator
City of Cleburne
P.O. Box 677
Cleburne, Texas 76033

OR2009-12957

Dear Ms. Hight:

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# 355351.

The City of Cleburne (the "city") received a request for all police reports for the requestor. You claim the submitted police reports are excepted from disclosure under section 552.101 of the Government Code. We understand you to assert that section 552.130 of the Government Code excepts from disclosure the Texas motor vehicle record information you marked in the submitted reports. 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. Section 552.101 encompasses information protected by other statutes, 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. The relevant language of section 58.007 reads 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 Subchapters B, D, and E.

...

(e) Law enforcement records and files concerning a child may be inspected or copied by a juvenile justice agency as that term is defined by Section 58.101, a criminal justice agency as that term is defined by Section 411.082, Government Code, the child, and the child's parent or guardian.

...

(j) Before a child or a child's parent or guardian may inspect or copy a record or file concerning the child under Subsection (e), the custodian of the record or file shall redact:

(1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child; and

(2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law.

Id. § 58.007(c), (e), (j). 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). Upon review of the submitted police reports, we find they involve allegations of and arrests for juvenile conduct in violation of penal statutes that occurred after September 1, 1997. However, we note, and you acknowledge, that most of the submitted reports list the requestor as a juvenile suspect or arrestee. You submitted three reports pertaining to case number 232290: an initial incident report, a follow-up report, and a second follow-up report. The initial and first follow-up reports do not name the requestor. You acknowledge, however, that the second follow-up report pertaining to this case lists the requestor as a suspect. Thus, because the initial and first follow-up reports clearly relate to the criminal

conduct for which the requestor is eventually listed as a suspect, we conclude that all three reports pertaining to case number 232290 are law enforcement records concerning the requestor. A governmental body may not withhold a child's law enforcement records from the child under section 58.007(c). *Id.* § 58.007(e). Section 58.007(j)(1) requires the redaction of any personally identifiable information concerning other juvenile suspects, offenders, victims, or witnesses. *See id.* § 58.007(j)(1). You marked the information you assert is identifying of juvenile suspects, offenders, victims, and witnesses other than the requestor. However, you have failed to demonstrate how some of the information you marked, including individuals' date of birth, race, ethnicity, sex, height, weight, hair color, eye color, JRN number, and Arrest ID number, constitutes identifying information for purposes of 58.007(j). Because you do not explain how this information is identifying, it may not be withheld under section 58.007(j)(1). *Id.* Thus, the city must only withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code.¹ However, pursuant to section 58.007(j)(2), a governmental body may raise other exceptions to disclosure. *Id.* § 58.007(j)(2). Accordingly, we will address your argument under section 552.130 of the Government Code.

You marked the Texas motor vehicle record information in the remaining information under section 552.130 of the Government Code. Section 552.130 excepts from disclosure information relating to a Texas motor vehicle driver's license and information relating to a Texas motor vehicle title or registration. Gov't Code § 552.130. The city must withhold the Texas license plate and driver's license numbers you marked under section 552.130 of the Government Code.

In summary, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code, and the Texas license plate and driver's license numbers you marked under section 552.130 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,

¹Because this requestor has a special right of access to information that would ordinarily be confidential under section 58.007 of the Family Code, the city must again seek a decision from this office if it receives another request for the same information from a different requestor.

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, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Davis", written over a horizontal dashed line.

Bob Davis
Assistant Attorney General
Open Records Division

RSD/cc

Ref: ID# 355351

Enc. Submitted documents

cc: Requestor
(w/o enclosures)