



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 6, 2010

Mr. Joseph P. Sanders
First Assistant City Attorney
City of Beaumont
P.O. Box 3827
Beaumont, Texas 77704-3827

OR2010-06555

Dear Mr. Sanders:

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# 378839.

The City of Beaumont (the "city") received a request for ten categories of information pertaining to a specified automobile accident. You claim that the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note a portion of the submitted information is not responsive to the instant request as it does not pertain to the categories of information requested. We have marked the non-responsive information. This ruling does not address the public availability of any information that is not responsive to the request and the city need not release that information in response to the request.

Next, we note the responsive information includes CR-3 accident report forms. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," and

encompasses information made confidential by statute.¹ Gov't Code § 552.101. Section 550.065(b) of the Transportation Code states that except as provided by subsection (c), accident reports are privileged and confidential. *See id.* § 550.065(b). However, section 550.065(c)(4) provides for the release of an accident report to a person who provides two of the following three items of information: (1) the date of the accident; (2) the name of any person involved in the accident; and (3) the specific location of the accident. *See id.* § 550.065(c)(4). Under this provision, the Texas Department of Transportation or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more of the items of information specified by the statute. *Id.* In this case, the requestor provided the city with two of the three required items of information specified by section 550.065(c)(4). Although you contend this information is excepted under section 552.103 of the Government Code, we note the exceptions found in the Act generally do not apply to information made public by other statutes. *See* Open Records Decision No. 525 (1989) (statutory predecessor). Thus, the city must release the CR-3 accident report forms, which we have marked, pursuant to section 550.065(c)(4) of the Transportation Code.

We note the remaining responsive information falls within the scope of section 58.007 of the Family Code, which is also encompassed by section 552.101. Section 58.007 provides:

(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.

Fam. Code § 58.007. Upon review, we find the remaining responsive information pertains to juvenile delinquent conduct that occurred after September 1, 1997. *See id.* § 51.03(a)

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

(defining “delinquent conduct” for purposes of Fam. Code § 58.007); *see also* § 51.02(2) (defining a “child” as a person who is ten years of age or older and under seventeen years of age for purposes of section 58.007). It does not appear that any of the exceptions in section 58.007 of the Family Code apply. Accordingly, the remaining responsive information must be withheld in its entirety under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

In summary, the city must release the CR-3 accident report forms we have marked pursuant to section 550.065(c)(4) of the Transportation Code. The city must withhold the remaining responsive information under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. As our ruling is dispositive, we need not address your argument against disclosure.

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

Sincerely,



Christina Alvarado
Assistant Attorney General
Open Records Division

CA/rl

Ref: ID# 378839

Enc. Submitted documents

cc: Requestor
(w/o enclosures)