



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 6, 2010

Ms. Yvette Aguilar
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2010-09867

Dear Ms. Aguilar:

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#385257.

The City of Corpus Christi (the "city") received a request for any conviction/criminal records pertaining to the requestor's client, including any judgements, indictments, stipulations, offense reports, and plea agreements. You state you have provided some of the responsive information to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 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. Section 552.101 encompasses section 261.201(a) of the Family Code, which provides:

- (a) Except as provided by Section 261.203, 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.

Fam. Code § 261.201(a). Upon review, we find that Report #0812210140 is within the scope of section 261.201 of the Family Code. *See id.* § 261.001 (defining “neglect” for the purposes of chapter 261 of the Family Code); *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). Accordingly, as you do not inform us that the city has adopted a rule that governs the release of this type of information, the city must withhold Report #0812210140 in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.¹ We note, however, that Report #1003280136 pertains to a traffic stop and outstanding warrant arrest. You have not explained how this information was used or developed in a chapter 261 investigation. Thus, Report #1003280136 may not be withheld under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

Section 552.101 also 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. 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 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

¹As our ruling is dispositive, we do not address your section 552.108 argument against disclosure of Report #0812210140.

(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.

Id. § 58.007(c). Upon review, we agree that Report #0910310050 involves a juvenile engaged in delinquent conduct occurring after September 1, 1997; therefore, Report #0910310050 is subject to section 58.007. None of the exceptions in section 58.007 appear to apply; therefore, Report #0910310050 is confidential under section 58.007(c) of the Family Code and must be withheld in its entirety under section 552.101 of the Government Code.

Section 552.101 of the Government Code also encompasses section 550.065 of the Transportation Code. Section 550.065(b) states that except as provided by subsection (c), accident reports are privileged and confidential. *See* Transp. Code § 550.065. Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *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 pieces of information specified by the statute. *Id.* In this instance, the requestor has not provided the city with two of the three requisite pieces of information. Therefore, the city must withhold the submitted CR-3 report pursuant to section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code.

Section 552.101 also encompasses criminal history record information (“CHRI”) generated by the National Crime Information Center or by the Texas Crime Information Center.² Title 28 of part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal government or other states. *See* Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety (“DPS”) maintains, except that DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov’t Code § 411.083. Upon review, we find that a portion of the remaining information consist of confidential CHRI. Accordingly, the city must withhold this information, which we have marked, pursuant to section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code.³

²The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

³We note that an individual may obtain her own CHRI from DPS. *See* Gov’t Code § 411.083(b)(3).

Section 552.130 of the Government Code excepts from public disclosure information that relates to a Texas motor vehicle operator's or driver's license or permit or Texas motor vehicle title or registration. Gov't Code § 552.130(a)(1), (2). We have marked the information that is subject to section 552.130. We note, however, that section 552.130 protects personal privacy, and the requestor appears to be the authorized representative of the individual whose Texas motor vehicle record information is at issue. Thus, if the requestor is the authorized representative of this individual, the requestor would have a right of access to the marked Texas motor vehicle record information under section 552.023 of the Government Code. *See* Gov't Code § 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to that person and is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). If the requestor is not the authorized representative of the individual at issue, the city must withhold the Texas motor vehicle information we have marked under section 552.130 of the Government Code.⁴

In summary; 1) the city must withhold report #0812210140 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code; 2) the city must withhold Report #0910310050 under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code; 3) the city must withhold the submitted CR-3 report pursuant to section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code; 4) the city must withhold the CHRI we have marked under section 552.101 in conjunction with section 411.083 of the Government Code; 5) the city must withhold the Texas motor vehicle record information we have marked pursuant to section 552.130 of the Government Code, unless the requestor is acting as the individual's authorized representative. The remaining information must be released.⁵

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.

⁴We note that this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license and license plate numbers under section 552.130, without the necessity of requesting an attorney general decision.

⁵We note the requestor's client's social security number is in the information being released. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b). However, to the extent the requestor is the authorized representative of her client, she has a right of access to her client's social security number. Gov't Code § 552.023(a).

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,

A handwritten signature in black ink, appearing to read 'VB', with a long horizontal line extending to the right.

Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/jb

Ref: ID#385257

Enc. Submitted documents

c: Requestor
(w/o enclosures)