



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 27, 2011

Mr. Jason Day
City Attorney
City of Royse City
P.O. Box 638
Royse City, Texas 75189-0638

OR2011-07564

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# 422183 (Royse City ID# RCCA11-0073).

The Royse City Police Department (the "department") received a request for two incident reports involving the requestor. You state you have released portions of the submitted information. You claim a portion of the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the information you have submitted.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 58.007 of the Family Code, which makes confidential juvenile law

¹Section 552.301 of the Government Code prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. *See* Gov't Code § 552.301. The department raises section 552.101 of the Government Code. In addition, a portion of the submitted information is subject to section 552.130 of the Government Code. Regardless of whether the department failed to meet its section 552.301 requirements, sections 552.101 and 552.130 are mandatory exceptions that constitute compelling reasons sufficient to overcome the presumption of openness caused by the failure to comply with section 552.301. *See id.* § 552.302; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions generally).

enforcement records relating to conduct that occurred on or after September 1, 1997. 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.

Fam Code § 58.007(c), (e), (j). For purposes of section 58.007(c), "child" means a person who is ten years of age or older and under seventeen years of age at the time of the reported conduct. *See id.* § 51.02(2). The submitted reports involves a juvenile engaged in delinquent conduct that occurred after September 1, 1997. *See id.* § 51.03(a) (defining "juvenile

delinquent conduct” for the purposes of section 58.007). Thus, this information is subject to section 58.007(c). We note, and you acknowledge, the requestor is the juvenile offender listed in each of the reports. Under section 58.007(e), the juvenile may inspect or copy law enforcement records concerning himself. *Id.* § 58.007(e). Therefore, pursuant to section 58.007(e), the requestor has a right to inspect the juvenile law enforcement records at issue. However, personally identifiable information concerning any other juvenile suspects, offenders, victims, or witnesses must be redacted pursuant to section 58.007(j)(1) of the Family Code. *See id.* § 58.007(j)(1). Accordingly, we have marked information that must be withheld under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. You have failed to demonstrate how any portion of the remaining information you have marked identifies a juvenile suspect, offender, victim, or witness. Thus, no portion of the remaining information you have marked may be withheld under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. Section 58.007(j)(2) of the Family Code provides that information subject to any other exception to disclosure under the Act or other law must be redacted. *See id.* § 58.007(j)(2). A portion of the remaining information is subject to section 552.130 of the Government Code.² Accordingly, we will address the applicability of section 552.130 to the remaining information.

Section 552.130 provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov’t Code § 552.130(a)(1), (2). The department must withhold the Texas motor vehicle record information we have marked in the remaining information under section 552.130 of the Government Code.³

In summary, the department must 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. The department must withhold the Texas motor vehicle record information we have 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.

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

³We note this office 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 number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

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,



Melanie J. Villars
Assistant Attorney General
Open Records Division

MJV/dls

Ref: ID# 422183

Enc. Submitted documents

c: Requestor
(w/o enclosures)