



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 28, 2014

Ms. Andrea D. Russell
Counsel for the City of Saginaw
Taylor Olson Adkins Sralla Elam LLP
6000 Western Place, Suite 200
Fort Worth, Texas 76107

OR2014-01608

Dear Ms. Russell:

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# 512891.

The Saginaw Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident. You claim the submitted information is exempted 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 exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information made confidential by other statutes, such as section 58.007 of the Family Code, which provides, in relevant 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

(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 the conduct occurred. *See id.* § 51.02(2). Juvenile law enforcement records relating to juvenile delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997 are confidential under section 58.007(c). *See id.* § 51.03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision"). Upon review, we find the submitted information involves juvenile engaged in conduct indicating a need for supervision that occurred after September 1, 1997. As such, the submitted information is generally confidential under section 58.007(c) of the Family Code. We note the requestor is the step-parent of the juvenile at issue in the report. We are unable to determine, however, whether the requestor is the juvenile's parent or guardian, so as to have a right to inspect law enforcement records concerning the juvenile pursuant to section 58.007(e). *See id.* § 58.007(e). Therefore, we must rule conditionally. If the requestor is not the juvenile suspect's parent or guardian, then the department must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with

section 58.007(c) of the Family Code. However, if the requestor is the juvenile's parent or guardian, then the requestor has a right to inspect the submitted information under section 58.007(e) of the Family Code. In that event, the submitted information may not be withheld under section 552.101 on the basis of section 58.007(c). However, personally identifiable information concerning 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). For the purposes of section 58.007(j), we conclude a juvenile victim or witness is a person who is under eighteen years of age. Thus, the department must withhold information identifying juvenile witnesses from the submitted information, which we have marked, under section 552.101 in conjunction with section 58.007(j)(1). We note we are unable to determine whether one of the witnesses in the submitted report was under eighteen years of age at the time of the incident at issue. Thus, if this witness was under eighteen years of age at the time of the incident at issue, the department must withhold the witness's identifying information, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. If not, the department may not withhold this witness's identifying information on that basis. Pursuant to section 58.007(j)(2), the department must also withhold any information that is excepted from disclosure under chapter 552 or other law. Accordingly, we will address section 552.130 of the Government Code.

You state the department will redact the marked driver's license numbers pursuant to section 552.130(c) of the Government Code.¹ Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See Gov't Code* § 552.130. Upon review, we find the department must also withhold the additional driver's license information we have marked under section 552.130 of the Government Code.

In summary, if the requestor is not the juvenile suspect's parent or guardian, then the department must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. However, if the requestor is the juvenile suspect's parent or guardian, then the department must withhold the juvenile witnesses's identifying information we have marked under section 58.007(j)(1) of the Family Code, as well as the additional information we have

¹Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See Gov't Code* § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

marked under section 552.130 of the Government Code. The remaining information must be released to this requestor.²

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/akg

Ref: ID# 512891

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note that, because this requestor has a special right of access to the information being released, the department must again ask this office for a decision if it receives another request for this information from a different requestor.