



January 20, 2015

Ms. Leticia D. McGowan
School Attorney
Dallas Independent School District
3700 Ross Avenue
Dallas, Texas 75204

OR2015-01087

Dear Ms. McGowan:

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# 550693 (ORR# 13529).

The Dallas Independent School District (the "district") received a request for all police incident reports pertaining to Dade Middle School for a specified time period. You claim 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 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. This section encompasses information protected by other statutes, such as section 58.007 of the Family Code, which provides, in relevant part:

(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:

¹Although you also originally raised sections 552.108 and 552.135 of the Government Code, you have not submitted arguments explaining how these sections apply to the requested information. Therefore, we assume you have withdrawn these claims. See Gov't Code §§ 552.301, .302.

- (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.

Fam. Code § 58.007(c). Section 58.007(c) is applicable to records of juvenile delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. *See id.* § 51.03(a)-(b) (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of section 58.007). 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). Upon review, we find the information we have marked involves juvenile delinquent conduct and conduct indicating a need for supervision that occurred after September 1, 1997. Further, it does not appear any of the exceptions in section 58.007 apply to this information. Therefore, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.² Although you assert the remaining information is confidential under section 58.007, we find this information does not involve juveniles as suspects or offenders for purposes of section 58.007. Accordingly, we find you have not demonstrated the applicability of section 58.007(c) of the Family Code to the remaining information. Consequently, the district may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

Section 552.101 of the Government Code also encompasses section 261.201 of the Family Code, which provides, in relevant part:

(a) 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

²As our ruling for this information is dispositive, we need not address your remaining arguments against disclosure for this information.

(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.

Id. § 261.201(a). Some of the remaining information consists of reports used or developed in investigations by the district's police department (the "department") of alleged or suspected child abuse. *See id.* § 261.001(1) (defining "abuse" for 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 disabilities of minority removed for general purposes). Upon review, we find the information we have marked is within the scope of section 261.201 of the Family Code. We have no indication the department has adopted a rule that governs the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption, we find the information we have marked is confidential pursuant to section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). Accordingly, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.³

Section 552.101 of the Government Code also encompasses section 58.106 of the Family Code. You claim the remaining information is made confidential by section 58.106. However, subchapter B of chapter 58 of the Family Code, which contains section 58.106, pertains to the administration of the juvenile justice information system by the Texas Department of Public Safety. *See* Fam. Code § 58.102. Because the remaining information was not requested from the Texas Department of Public Safety, we conclude section 58.106 of the Family Code is not applicable in this instance. Thus, the remaining information is not confidential under section 58.106 and may not be withheld under section 552.101 of the Government Code on that basis.⁴

We note some of the remaining information is subject to section 552.130 of the Government Code.⁵ Section 552.130 provides information relating to a motor vehicle operator's license,

³As our ruling for this information is dispositive, we need not address your remaining arguments against disclosure for this information.

⁴Although you also assert the remaining information is confidential under section 58.104 of the Family Code, we note this section pertains to the types of information the Texas Department of Public Safety collects in maintaining the juvenile justice information system and does not otherwise make information confidential for the purposes of section 552.101 of the Government Code.

⁵The 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).

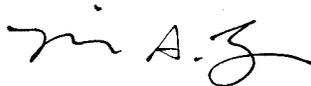
driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. See Gov't Code § 552.130. Accordingly, the district must withhold the motor vehicle record information we have marked in the remaining information under section 552.130 of the Government Code.

In summary, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with sections 58.007(c) and 261.201(a) of the Family Code. The district must withhold the motor vehicle record information we have marked in the remaining information under section 552.130 of the Government Code. The district must release the remaining information.

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,



Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/bhf

Ref: ID# 550693

Enc. Submitted documents

c: Requestor
(w/o enclosures)