



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 22, 2015

Ms. Lillian Guillen Graham
Assistant City Attorney
Office of the City Attorney
City of Mesquite
P.O. Box 850137
Mesquite, Texas 75185-0137

OR2015-14909

Dear Ms. Graham:

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# 572603.

The Mesquite Police Department (the "department") received a request for a specified incident report. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. 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. 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

(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). Juvenile law enforcement records relating to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997, are confidential under section 58.007. *See id.* § 51.03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision”). 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 conduct at issue. *See id.* § 51.02(2). The submitted information involves allegations of delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. However, we are unable to determine the ages of the alleged offenders. Accordingly, we must rule conditionally. It does not appear that any of the exceptions to confidentiality under section 58.007 apply in this instance. Thus, to the extent any of the offenders were ten years of age or older and under seventeen years of age at the time of the conduct at issue, the information at issue is confidential under section 58.007(c) and must be withheld under section 552.101. However, to the extent none of the offenders were ten years of age or older and under seventeen years of age at the time of the conduct at issue, the information at issue is not confidential pursuant to section 58.007(c) and it may not be withheld under section 552.101 on that basis. In that instance, we will consider whether the submitted information is otherwise excepted from release under the Act.

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.¹ *See Gov’t Code* § 552.130. Thus, the department must generally withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. However, we note section 552.130 protects personal privacy. In this instance, the requestor represents an insurance provider and may be acting as the authorized representative of the individual whose motor vehicle record information is at issue. To the extent the requestor is acting as the authorized representative of the individual whose motor vehicle record information is at issue, the requestor has a right of access under section 552.023 to information pertaining to that individual that would otherwise be protected under section 552.130. *See id.* § 552.023(a) (governmental body may not deny access to person to whom information relates or person’s agent on ground that information is considered confidential by privacy principles); ORD 481 at 4 (privacy theories

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).

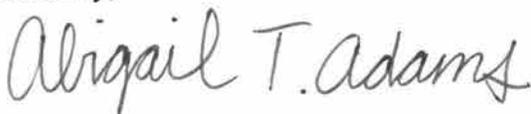
not implicated when individuals request information concerning themselves). Accordingly, to the extent the requestor has a right of access to the motor vehicle record information we have marked, such information may not be withheld from this requestor under section 552.130 of the Government Code.

In summary, to the extent any of the offenders were ten years of age or older and under seventeen years of age at the time of the conduct at issue, the submitted information is confidential under section 58.007(c) of the Family Code and must be withheld under section 552.101 of the Government Code. To the extent none of the offenders were ten years of age or older and under seventeen years of age at the time of the conduct at issue, the city (1) must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code if the requestor does not have a right of access under section 552.023 of the Government Code; and (2) 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,



Abigail T. Adams
Assistant Attorney General
Open Records Division

ATA/bhf

Ref: ID# 572603

Enc. Submitted documents

c: Requestor
(w/o enclosures)