



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 27, 1998

Mr. Miles T. Bradshaw
Assistant General Counsel
Houston Independent School District
Hattie Mae White Administration Building
3830 Richmond Avenue
Houston, Texas 77027-5838

OR98-0811

Dear Mr. Bradshaw:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 113709.

The Houston Independent School District (the "district") received several related requests from two requestors for information concerning district school buses and drivers. The first requestor originally asked for:

1. All requests for maintenance on any school bus since August 1, 1996.
2. All documents detailing maintenance service on any school bus since August 1, 1996.
3. Documents detailing any school bus accidents since August 1, 1996.
4. Documents detailing any [district] investigation into any accident involving any bus driver since August 1, 1996.
5. Documents detailing the name and Texas Drivers License of any bus driver currently employed by [the district].
6. Documents detailing the date of hire, resumes, or previous work experience of every [district] bus mechanic currently employed.

The first requestor sent a second request asking for “[t]he most recent driving record obtained by [the district] for every [district] bus driver currently employed.”¹ The first requestor then sent a third “formal request” for the following:

1. The driving records of all [district] bus drivers, all information other than the record of violations can be redacted, including all personal information, except for the date driving record was requested by [the district].
2. KTRK repeats its request for all records which detail the history of accidents by driver currently employed by [the district].

The second requestor asked for information regarding “all bus drivers” including name, date of birth, and driver’s license number and for “all DPS driver records” for district bus drivers currently employed.

In response to the requests made by the first requestor, you state that the district will provide documents in response to categories 1, 2, 3, 4, and 6 of the first requestor’s first request. You claim, however, that the remaining requested information is excepted from required public disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and have reviewed the representative sample documents you have submitted.²

You raise sections 552.101 and 552.130 in conjunction with new provisions of the Transportation Code.³ Section 552.130 of the Open Records Act governs the release and use of information obtained from motor vehicle records. Section 552.130 provides as follows:

(a) Information is excepted from [required public disclosure] if the information relates to:

- (1) a motor vehicle operator’s or driver’s license or permit issued by an agency of this state;

¹The first requestor modified his second request by stating that “all personal information, including the names of the drivers can be redacted.” This requestor added that “we are still seeking any document that details the history of [district] bus accidents by driver [sic] currently employed by [the district].”

²In reaching our conclusion here, we assume that the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach and, therefore, does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

³Section 552.101 excepts from required public disclosure information that is considered confidential by law, including statutory law.

(2) a motor vehicle title or registration issued by an agency of this state; or

(3) a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.

(b) Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

The Seventy-fifth Legislature added chapter 730 to the Transportation Code.⁴ The stated purpose of chapter 730 of the Transportation Code is “to implement 18 U.S.C. Chapter 123 and to protect the interest of an individual in the individual’s personal privacy by prohibiting the disclosure and use of personal information contained in motor vehicle records, except as authorized by the individual or by law.” Transp. Code § 730.002. Section 730.004 prohibits the disclosure of personal information about any person obtained by an agency in connection with a motor vehicle record.

In this instance, we believe that the district is an “agency,” as defined by section 730.003(1) of the Transportation Code, that compiles or maintains motor vehicle records. *See* Transp. Code § 730.003(4) (defining “motor vehicle record”). In its definition of “motor vehicle record,” section 730.003(4) of the Transportation Code, however, expressly excludes records that pertain to a motor carrier. The term “motor carrier” means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more vehicles that transport persons or cargo over a road or highway in this state. Transp. Code § 643.001. We believe that under these circumstances, persons who drive school buses for the district are “motor carriers,” and thus are outside the ambit of section 552.130. *See* Gov’t Code § 552.130(b). Therefore, we conclude that the district may not withhold the records at issue under sections 552.101 or 552.130 of the Government Code in conjunction with section 730.004 of the Transportation Code.

We note, however, that some of the information which you submitted for our review may be protected from disclosure under section 552.117 of the Government Code. Section 552.117(1) excepts from public disclosure information relating to the home address, home telephone number, and social security number of a current or former government employee or official, as well as information revealing whether that individual has family members. Section 552.117(1) requires you to withhold this information for an official, employee, or former employee who requested that this information be kept confidential under section 552.024. *See* Open Records Decision Nos. 622 (1994), 455 (1987). You may not, however, withhold this information if the employee had not made a request for confidentiality under

⁴Act of May 29, 1997, H.B. 1069, 75th Leg., R.S.

section 552.024 at the time this request for the information at issue was made. Whether a particular piece of information is public must be determined at the time the request for it is made. Open Records Decision No. 530 (1989) at 5.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch
Assistant Attorney General
Open Records Division

VDP/glg

Ref.: ID# 113709

Enclosures: Submitted documents

cc: Mr. Wayne Dolcefino
KTRK-TV
P.O. Box 13
Houston, Texas 77001
(w/o enclosures)

Mr. Tony Kovaleski
P.O. Box 2222
Houston, Texas 77252
(w/o enclosures)