



Office of the Attorney General  
State of Texas

August 25, 1998

DAN MORALES  
ATTORNEY GENERAL

Mr. Jimmy W. Williams  
Dallas County Schools  
612 North Zang Boulevard  
Dallas, Texas 75208

OR98-2040

Dear Mr. Williams:

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# 117819.

The Dallas County Schools (the "county") received a request for the background driving record checks of all individuals driving school buses for the county. Although you raise no exception to disclosure on behalf of the county, you state that the bus drivers' home addresses, social security numbers, and driver's license numbers may be confidential by law. We have considered your arguments and reviewed the submitted representative sample of documents.<sup>1</sup>

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

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<sup>1</sup>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.

(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.<sup>2</sup> 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 county 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 county 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 county may not withhold the driver’s license information at issue under section 552.130 of the Government Code in conjunction with section 730.004 of the Transportation Code.

We note, however, that some of the submitted information may be confidential 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.<sup>3</sup> 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 section 552.024 at the time this request for the information at issue was made. Whether a particular piece of information is

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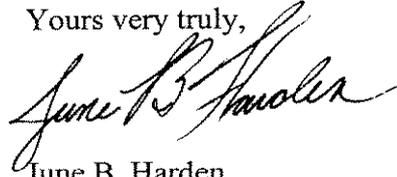
<sup>2</sup>Act of May 29, 1997, 75<sup>th</sup> Leg., R.S., ch. 1187, § 1, 1997 Tex. Gen. Laws 4575.

<sup>3</sup>We note that the employee’s name is not protected by section 552.117.

public must be determined at the time the request for it is made. Open Records Decision No. 530 at 5 (1989).<sup>4</sup>

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,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/ch

Ref.: ID# 117819

Enclosures: Submitted documents

cc: Mr. Randy Westerman  
Producer/Photographer  
Channel 11 News  
5233 Bridge Street  
Fort Worth, Texas 76103  
(w/o enclosures)

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<sup>4</sup>In addition, a social security number or "related record" may be excepted from disclosure under section 552.101 in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(vii). In relevant part, the 1990 amendments to the federal Social Security Act make confidential social security account numbers and related records that are obtained and maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See* Open Records Decision No. 622 (1994). We caution, however, that an employer may be required to obtain an employee's social security number under laws that were enacted before October 1, 1990; a social security number obtained under a law that was enacted before October 1, 1990, is not made confidential by the 1990 amendments to the Social Security Act. Based on the information that you have provided, we are unable to determine whether the social security numbers contained in the submitted documents are confidential under federal law. On the other hand, section 552.352 of the Government Code imposes criminal penalties for the release of confidential information. Therefore, prior to releasing *any* social security number, you should ensure that it was not obtained pursuant to a law enacted on or after October 1, 1990. We note, however, that hiring an individual after October 1, 1990, is not the same as obtaining an individual's social security number pursuant to a law enacted on or after October 1, 1990.