



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 11, 2010

Mr. Jeffrey L. Moore  
Brown & Hofmeister, L.L.P.  
For City of Roanoke  
740 East Campbell Road, Suite 800  
Richardson, TX 75081

OR2010-02144

Dear Mr. Moore:

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# 369998.

The Roanoke Police Department (the "department"), which you represent, received a request for a specified offense report, related written report, video and audio recordings. The department informs us no responsive offense report exists. You claim that 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.

Initially, we note the submitted chain of evidence report is non-responsive because it was created after the date the department received the present request for information. Our ruling does not address this non-responsive information, and the department need not release this information in response to the request.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information that other statutes make confidential, such as section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. 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.

...

(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). Upon review, we agree the submitted information involves juveniles engaged in delinquent conduct occurring after September 1, 1997; therefore, the submitted information is subject to section 58.007. We note, however, that the requestor is a parent of one of the juvenile offenders identified in the submitted video recordings. Therefore, the requestor has a right to inspect law enforcement records concerning his daughter under section 58.007(e). *See id.* § 58.007(e). However, personally identifiable information concerning any 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), a juvenile suspect or offender is a child as defined by section 51.02 of the Family Code. *See id.* § 51.02(2) (“child” means a person who is ten years of age or older and under seventeen years of age). However, for the purposes of section 58.007(j), we conclude that a juvenile victim or witness is a person who is under eighteen years of age. Therefore, the department must withhold the other juveniles’ images, names, telephone numbers, and driver’s license numbers contained within the video recordings pursuant to section 58.007(j)(1).

Additionally, section 58.007 of the Family Code provides that information subject to any other exception to disclosure under the Act or other law must be redacted. *See id.* § 58.007(j)(2). To the extent the remaining information includes driver’s license numbers belonging to non-juveniles, this information is subject to section 552.130 of the Government Code.<sup>1</sup> Section 552.130 provides that information relating to a motor vehicle operator’s or driver’s license issued by a Texas agency is excepted from public release. Gov’t Code § 552.130(a)(1). Accordingly, the department must withhold any driver’s license numbers belonging to non-juveniles under section 552.130.

Finally, we note that, in the event the department lacks the technological capability to redact the types of information we have indicated from the submitted video recordings under section 58.007(j)(1) of the Family Code and section 552.130 of the Government Code, the department must withhold the submitted video recordings in their entirety.

In summary, the department must withhold the images, names, telephone numbers, and driver’s license numbers belonging to juveniles other than the requestor’s child under section 552.101 in conjunction with section 58.007(j)(1) of the Family Code and any driver’s license numbers belonging to non-juveniles under section 552.130 of the Government Code.<sup>2</sup> The remaining information in the submitted video recordings must be released to the requestor.<sup>3</sup> In the event the department lacks the technological capacity to redact the types of information we have indicated from the submitted video recordings under section 58.007(j)(1) of the Family Code and section 552.130 of the Government Code, the

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<sup>1</sup>The 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).

<sup>2</sup>We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver’s license numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

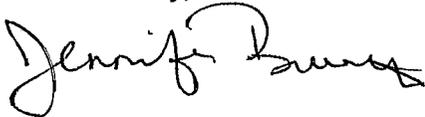
<sup>3</sup>Because the requestor has a right of access to certain information that otherwise would be excepted from release under the Act, the department must again seek a decision from this office if it receives a request for this information from a different requestor.

department must withhold the video recordings in their entirety under section 58.007(c) of the Family Code in conjunction with section 552.101 of the Government Code.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/dls

Ref: ID# 369998

Enc. Submitted documents

c: Requestor  
(w/o enclosures)