



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 23, 2010

Mr. Joseph J. Gorfida, Jr.
Assistant City Attorney
City of Richardson
P.O. Box 831078
Richardson, Texas 75083-1078

OR2010-04058

Dear Mr. Gorfida:

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# 373538.

The City of Richardson (the "city") received a request for information pertaining to a specified incident. You indicate the city has released some of the requested information to the requestor. You claim portions of the submitted information are 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 a portion of the submitted information is not responsive to the instant request for information. The requestor only asks for information pertaining to a specified incident. Accordingly, only the information that pertains to this incident is responsive to this request. This ruling does not address the public availability of nonresponsive information, which we have marked, and the city is not required to release nonresponsive information in response to this request.

Next, you indicate you have released the information in Exhibit B. We note that the city has redacted some of this information. Pursuant to section 552.301 of the Government Code, a governmental body that seeks to withhold requested information must submit to this office a copy of the information, labeled to indicate which exceptions apply to which parts of the copy, unless the governmental body has received a previous determination for the information at issue. Gov't Code §§ 552.301(a), 301(e)(1)(D). The city has redacted social security numbers. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See id.* § 552.147. In addition, we note the city has redacted Texas driver's license numbers and classes. Redaction of Texas driver's license numbers is now permitted pursuant to the previous determination issued to all governmental bodies in Open Records Decision 684 (2009), which authorizes the

withholding of ten categories of information, including Texas driver's license numbers under section 552.130 of the Government Code. However, you do not assert, nor does our review of our records indicate, that the city has been otherwise authorized to withhold the Texas driver's license classes the city redacted without seeking a ruling from this office. *See* Gov't Code § 552.301(a); ORD 673. In this instance, we can discern the nature of the redacted information; thus, being deprived of that information does not inhibit our ability to make a ruling. However, in the future, the city must not redact requested information that it submits to this office in seeking an open records ruling, unless the information is the subject of a previous determination under section 552.301 of the Government Code. *See* Gov't Code §§ 552.301(e)(1)(D), .302. Failure to comply with section 552.301 may result in the information being presumed public under section 552.302 of the Government Code. *See id.*

Next, section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 encompasses former section 51.14 of the Family Code. Prior to its repeal by the Seventy-fourth Legislature, section 51.14(d) of the Family Code provided for the confidentiality of juvenile law enforcement records. *See* Open Records Decision No. 181 (1977) (concluding that former section 51.14(d) of the Family Code excepts police reports that identify juvenile suspects or furnish basis for their identification). Law enforcement records pertaining to conduct occurring before January 1, 1996, are governed by former section 51.14(d), which was continued in effect for that purpose. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2591. Section 51.14 applies only to records of a "child," which is defined as a person who is ten years of age or older and under seventeen years of age. *See* Fam. Code § 51.02(2). In this instance, incident report number 90-6722 pertains to an investigation of juvenile delinquent conduct that occurred prior to January 1, 1996. *See id.* § 51.03 (defining "delinquent conduct"). Therefore, incident report number 90-6722, and the corresponding information in the separate jail log, is confidential under former section 51.14(d) of the Family Code and must be withheld under section 552.101 of the Government Code. *See id.* § 51.04(a) (title 3 covers cases involving delinquent conduct or conduct indicating need for supervision engaged in by a child). You also claim incident report numbers 90-6726 and 90-3731 are confidential under section 51.14 because these incident reports relate to incident report number 90-6722. However, incident report numbers 90-6726 and 90-3731 do not list a juvenile as a suspect or offender. Accordingly, these reports may not be withheld under section 552.101 in conjunction with section 51.14(d).

Finally, section 552.130 of the Government Code excepts from disclosure information that relates to "a motor vehicle operator's or driver's license or permit issued by an agency of this state." Gov't Code § 552.130(a)(1). Accordingly, the city must withhold the Texas driver's license classes you have redacted, as well as the Texas driver's license number we have marked, under section 552.130.

In summary, (1) the city must withhold incident report number 90-6722, and the corresponding information in the separate jail log, under section 552.101 of the Government Code in conjunction with former section 51.14(d) of the Family Code; (2) the city must

withhold the Texas driver's license classes you have redacted, as well as the Texas driver's license number we have marked, under section 552.130 of the Government Code. The remaining information must be released to the requestor.¹

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, 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,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/jb

Ref: ID# 373538

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note the remaining information contains social security numbers. As noted previously, section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.