



ATTORNEY GENERAL OF TEXAS  
GREG. ABBOTT

April 22, 2010

Mr. Hyattye O. Simmons  
General Counsel  
Dallas Area Rapid Transit  
P.O. Box 660163  
Dallas, Texas 75266-0163

OR2010-05740

Dear Mr. Simmons:

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# 377740 (DART ORR Nos. 7193, 7202).

Dallas Area Rapid Transit ("DART") received two requests from the same requestor for two specified incident reports. The requestor's first request also seeks information pertaining to the officer who issued citations in relation to the specified incident reports. 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.

Initially, you inform us DART requested clarification of the portion of the first request seeking information pertaining to the officer who issued citations in relation to the specified incident reports. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information). You state DART had not yet received a response to its request for clarification as of the date you requested this decision. Accordingly, DART has no obligation at this time to release any information that might be responsive to this portion of the request. But if DART receives clarification and wishes to withhold any of the information encompassed by the clarified request, then you must request another decision from this office. *See id.* §§ 552.301, .302; *see also City of Dallas v. Abbott*, No. 07-0931, 2010 WL 571972, at \*3 (Tex. February 19, 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of

an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

Section 552.101 of the Government Code excepts from public 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 made confidential by statute. Section 58.007 of the Family Code provides for the confidentiality of juvenile law enforcement records related to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. *See* Fam. Code § 51.03 (defining "delinquent conduct" and "conduct indicating a need for supervision"). The relevant part of section 58.007(c) reads 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.

*Id.* § 58.007(c): 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. *See id.* § 51.02(2). Upon review, we agree DART police report number DC07007451 constitutes a confidential law enforcement record under section 58.007(c). Moreover, it does not appear that any of the exceptions in section 58.007 apply to this information. Accordingly, DART must withhold report number DC07007451 in its entirety under section 552.101 in conjunction with section 58.007.<sup>1</sup>

Section 552.101 of the Government Code also encompasses section 261.201(a) of the Family Code, which provides as follows:

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<sup>1</sup>As our ruling is dispositive for this information, we do not address your remaining argument against release of portions of this information.

(a) Except as provided by section 261.203, the following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, and videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

*Id.* § 261.201(a). Upon review of the remaining information, we find report number DC07005419 consists of files, reports, records, communications, audiotapes, videotapes, or working papers used or developed in an investigation conducted by DART police of alleged or suspected child abuse or neglect under chapter 261 of the Family Code. *See id.* § 261.001 (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining “child” for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). Therefore, we find report number DC07005419 is confidential pursuant to section 261.201(a). *See* Open Records Decision No. 440 at 2 (1986) (construing predecessor statute). Accordingly, DART must withhold this report in its entirety under section 552.101 in conjunction with section 261.201.<sup>2</sup>

In summary, DART must withhold report number DC07007451 under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. DART must also withhold report number DC07005419 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family 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.

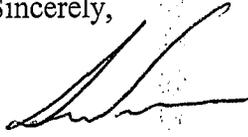
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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

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<sup>2</sup>As our ruling is dispositive for this information, we do not address your remaining argument against release of portions of this information.

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,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/eeg

Ref: ID# 377740

Enc. Submitted documents

c: Requestor  
(w/o enclosures)