



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 11, 2010

Ms. Cecilia Gamez
Crime Records Bureau
McAllen Police Department
P.O. Box 220
McAllen, Texas 78501

OR2010-12181

Dear Ms. Gamez:

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# 394721.

The McAllen Police Department (the "department") received a request for a specified incident report. You claim that the requested 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.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, 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. You claim the submitted report is subject to section 58.007. However, this office has concluded section 58.007, as enacted by the Seventy-fourth Legislature, does not make confidential juvenile law enforcement records relating to conduct that occurred on or after January 1, 1996. Open Records Decision No. 644 (1996). The Seventy-fifth Legislature, however, amended section 58.007 to once again make juvenile law enforcement records confidential effective September 1, 1997. Act of June 2, 1997, 75th Leg., R.S., ch. 1086, 1997 Tex. Sess. Law Serv. 4179, 4187 (Vernon). However, the legislature chose not to make this most recent

amendment retroactive in application. Consequently, law enforcement records pertaining to juvenile delinquent conduct that occurred between January 1, 1996, and September 1, 1997, are not subject to the confidentiality provisions of either the former section 51.14(d) or the current section 58.007 of the Family Code. In this instance, the submitted report pertains to juvenile conduct that occurred in July of 1997, and is, therefore, not confidential under either the former section 51.14(d) or the current section 58.007 of the Family Code. Thus, the submitted report may not be withheld under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

We note the submitted remaining information contains Texas motor vehicle record information subject to section 552.130 of the Government Code. This section excepts from disclosure information that relates to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration issued by an agency of this state or a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document. *See* Gov't Code § 552.130(a)(1)-(3). We note that section 552.130 protects personal privacy. In this instance, the requestor has a right of access under section 552.023 to his own Texas motor vehicle record information, and it may not be withheld from him pursuant to section 552.130. *See generally id.* § 552.023(b) (governmental body may not deny access to person to whom information relates, or that person's representative, solely on grounds that information is considered confidential by privacy principles). However, the department must withhold the information we have marked that does not pertain to the requestor pursuant to section 552.130 of the Government Code.¹ The remaining information must be released.²

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

¹We 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 license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

²We note that because the requestor has a special right of access to some of this information in this instance, the department must again seek a decision from this office if it receives another request for the same information from another requestor.

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,

A handwritten signature in cursive script that reads "Paige Lay".

Paige Lay
Assistant Attorney General
Open Records Division

PL/eeg

Ref: ID# 394721

Enc. Submitted documents

cc: Requestor
(w/o enclosures)