



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

December 3, 2010

Ms. Martha T. Williams
Olson & Olson, L.L.P.
For City of Humble
2727 Allen Parkway, Suite 600
Houston, Texas 77019

OR2010-18140

Dear Ms. Williams:

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# 401772.

The City of Humble (the "city"), which you represent, received a request for three categories of video footage and related audio recordings from September 15, 2009 to the date of the request.¹ You claim some of the submitted information is excepted from disclosure under section 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We note some of the submitted video recordings are subject to section 552.101 of the Government Code.² 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. Section 552.101 encompasses information protected by other statutes, including section 58.007 of the Family Code, which provides for

¹We note the city received clarification from the requestor regarding this request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

²The Office of the Attorney General will raise a mandatory exception like section 552.101 on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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* Open Records Decision No. 680 at 4 (2004); *See also* Fam. Code §§ 51.02 defining “child” as a person who is ten years of age or older and under seventeen years of age at the time of the conduct); .03(a) (defining “delinquent conduct”). Section 58.007 provides in relevant part:

(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.

Fam. Code § 58.007(c). Some of the submitted video recordings are law enforcement records that involve a juvenile accused of delinquent conduct that occurred after September 1, 1997. Furthermore, it does not appear that any of the exceptions in section 58.007 apply in this instance. Accordingly, the seven video recordings we have marked are confidential under section 58.007(c) of the Family Code, and the city must withhold these marked recordings in their entirety under section 552.101 of the Government Code.

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov’t Code § 552.130(a)(1), (2). Upon review, we find six of the remaining video recordings, which we have marked, contain Texas driver’s license and license plate numbers the city must withhold under section 552.130 of the Government Code.³ You state the city does not have the technological ability to redact this information from the submitted video recordings. Based on this representation, we

³This office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver’s license number and the portion of any video depicting a discernible Texas license plate number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

conclude you must withhold the video recordings we have marked in their entirety pursuant to section 552.130 of the Government Code. However, no portion of the remaining video recording includes information subject to section 552.130 of the Government Code. Thus, no portion of the remaining video recording may be withheld on that basis.

In summary, the city must withhold the seven video recordings we have marked pursuant to section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. The city must also withhold the six video recordings we have marked under section 552.130 of the Government Code. The remaining video recording must be released.

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,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

Ref: ID# 401772

Enc. Submitted documents

c: Requestor
(w/o enclosures)