



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 27, 2011

Mr. John D. Lestock
Assistant City Attorney
City of Paris
P.O. Box 9037
Paris, Texas 75461

OR2011-07537

Dear Mr. Lestock:

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# 418882.

The Paris Police Department (the "department") received two requests for information pertaining to the requestors' client. You claim the submitted offense reports are 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. Section 552.101 encompasses information protected by other statutes, such as section 58.007 of the Family Code. 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.

...

(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). Juvenile law enforcement records relating to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997 are confidential under section 58.007. Fam. Code § 58.007. For purposes of section 58.007, "child" means a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). You claim submitted department report numbers 200216200, 200306785, 200323661 and 200445741 are confidential pursuant to section 58.007. Upon review, we agree that report numbers 200216200, 200306785, and 200323661 each involve a child engaged in delinquent conduct, and thus are subject to section 58.007. *See id.* § 51.03(a) (defining "delinquent conduct" for purposes of section 58.007). We note that report number 200216200 involves the requestors' client as a suspect. A governmental body may not withhold a child's law enforcement records from the child or his authorized representative under section 58.007(c). *Id.* § 58.007(e). Thus, the department may not withhold report number 200216200 from these requestors on the basis of section 58.007. *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). Thus, the

department must withhold the identifying information of the juvenile victim and other juvenile offenders which we have marked in report number 200216200 under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. Additionally, section 58.007(j)(2) provides that information subject to any other exception to disclosure under the Act or other law must also be redacted. *Id.* § 58.007(j)(2). Thus, we will consider the public availability of the remaining portions of report number 200216200 along with the remaining information. Because report numbers 200306785 and 200323661 do not involve the requestors' client as a juvenile offender, the department must withhold these reports under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. However, you do not explain, and report number 200445741 does not reflect, how it involves any child engaged in delinquent conduct or conduct indicating a need for supervision. Thus, you have failed to demonstrate the applicability of section 58.007 to report number 200445741, and the department may not withhold it on that basis.

We note that report numbers 200216200 and 200445741, as well as some of the submitted call for service reports, contain information subject to section 552.130 of the Government Code. Section 552.130 excepts from disclosure information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency. Gov't Code § 552.130(a)(1), (2). We note this office is unable to determine the extent to which the marked Texas license plate numbers pertain to vehicles owned by the requestors' client. Because section 552.130 protects personal privacy, the requestors have a right of access to their client's motor vehicle record information. As such, to the extent any of the marked information pertains to the requestors' client it may not be withheld under section 552.130. The department must withhold the remaining Texas motor vehicle record information we marked under section 552.130 of the Government Code.¹

In summary, the department must withhold report numbers 200306785 and 200323661 under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. The department must withhold the information we marked in report number 200216200 under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. The department must withhold the Texas motor vehicle record information we marked in the remaining information under section 552.130 of the Government Code, but must release to these requestors any information pertaining to their client. The remaining information must be released.²

¹Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold ten categories of information without the necessity of requesting an attorney general decision, including Texas driver's license and license plate numbers under section 552.130 of the Government Code.

²We note the remaining information contains a social security number. 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. We also note the

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,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/eb

Ref: ID# 418882

Enc. Submitted documents

c: Requestor
(w/o enclosures)

requestors have a special right of access to some of the information being released in this instance. Because such information would be confidential with respect to the general public, if the department receives another request for this particular information from a different requestor, then the department should again seek a ruling from this office.