



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 9, 2011

Ms. Donna L. Johnson
Olson & Olson, L.L.P.
Wortham Tower, Suite 600
2727 Allen Parkway
Houston, Texas 77019

OR2011-08221

Dear Ms. Johnson:

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# 424985.

The City of Cleveland (the "city"), which you represent, received a request for case number 11-0031. You claim the requested information is excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code. We have considered the exceptions 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. Section 58.005 of the Family Code provides that "[r]ecords and files concerning a child, including personally identifiable information, and information obtained for the purpose of diagnosis, examination, evaluation, or treatment or for making a referral for treatment of a child by a public or private agency or institution providing supervision of a child by arrangement of the juvenile court or having custody of the child under order of the juvenile court may be disclosed only to [certain listed individuals]." Fam. Code § 58.005(a). You do not inform us, and the submitted information at issue does not itself reflect, that any of this information was "obtained for the purpose of diagnosis, examination, evaluation, or treatment or for making a referral for treatment of a child by a public or private agency or institution providing supervision of a child by arrangement of the juvenile court or having

custody of the child under order of the juvenile court” *Id.* We therefore conclude that this information is not excepted from disclosure under section 552.101 of the Government Code in conjunction with section 58.005 of the Family Code.

Section 552.101 of the Government Code also encompasses 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(c), which provides as follows:

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), a “child” is defined as a person ten years of age or older and under seventeen years of age. *Id.* § 51.02(2)(A). Section 58.007(c) is not applicable to information that relates to a juvenile as a complainant, victim, witness, or other involved party; it is only applicable to juveniles listed as suspects or offenders. *See id.* §§ 58.007, 51.03 (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of section 58.007). We have reviewed the submitted information and find that the submitted report does not identify a juvenile suspect or offender for purposes of section 58.007. Accordingly, we find that you have not demonstrated the applicability of section 58.007(c) of the Family Code. Thus, you may not withhold the submitted information under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

Section 552.101 of the Government Code also encompasses section 411.083 of the Government Code, which pertains to criminal history records information (“CHRI”) generated by the National Crime Information Center or by the Texas Crime Information Center. Title 28 of part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal government or other states. *See* Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* Section 411.083 of the Government Code deems

confidential CHRI that the Department of Public Safety (“DPS”) maintains, except that DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov’t Code § 411.083. Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for a criminal justice purpose. *Id.* § 411.089(b)(1). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release CHRI except as provided by chapter 411. *See generally id.* §§ 411.090 - .127. Thus, any CHRI generated by the federal government or another state may not be made available to the requestor except in accordance with federal regulations. *See* ORD 565. Furthermore, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F. Upon review, we find that a portion of the submitted information consists of confidential CHRI. Accordingly, the city must withhold this information, which we have marked, pursuant to section 552.101 in conjunction with chapter 411 of the Government Code and federal law.

Section 552.130 of the Government Code exempts from public disclosure information that relates to a Texas motor vehicle operator’s or driver’s license. Gov’t Code § 552.130(a)(1). We note that section 552.130 protects personal privacy. Thus, the requestor has a right of access to his own Texas driver’s license number under section 552.023 of the Government Code. *See id.* § 552.023 (person or person’s authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person’s privacy interests); Open Records Decision No. 481 at 4 (1987). Furthermore, if the requestor is seeking the information on behalf of his spouse, then he also has a right of access to his spouse’s Texas driver’s license number pursuant to section 552.023. If the requestor is not seeking the information as his spouse’s authorized representative, then the city must withhold her Texas driver’s license number under section 552.130 of the Government Code. In either event, the city must withhold the marked driver’s license number not belonging to the requestor or his spouse under section 552.130 of the Government Code.¹

Section 552.147 of the Government Code provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. Gov’t Code § 552.147. The city may withhold the social security number you have marked under section 552.147.

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

In summary, the city must withhold the information we have marked pursuant to section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code and federal law. The requestor has a right of access to his own Texas's driver's license number, and, if the requestor is seeking the information on behalf of his spouse, then he also has a right of access to his spouse's Texas driver's license number. If the requestor is not seeking the information as his spouse's authorized representative, then the city must withhold her Texas driver's license number under section 552.130 of the Government Code. The city must withhold the marked driver's license number not belonging to the requestor or his spouse under section 552.130 of the Government Code. The city may withhold the social security number you have marked under section 552.147 of the Government Code. The remaining information 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,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/bs

Ref: ID# 424985

Enc. Submitted documents

c: Requestor
(w/o enclosures)