



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 29, 2011

Ms. Linda Hight
Records Coordinator
City of Cleburne
P.O. Box 677
Cleburne, Texas 76033

OR2011-12480

Dear Ms. Hight:

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# 432612.

The City of Cleburne (the "city") received a request for two specified incident reports. You claim the requested information is excepted from disclosure under sections 552.101 and 552.108 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 that other statutes make confidential, 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(c). For purposes of section 58.007, "child" means a person who is ten years of age or older and under seventeen years of age. Fam. Code § 51.02(2). 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.

Id. § 58.007(c). After reviewing Exhibit 2, we find it involves juvenile delinquent conduct that occurred after September 1, 1997. *Id.* § 51.03(a) (defining “delinquent conduct”). It does not appear any of the exceptions in section 58.007 apply; therefore, this information is confidential pursuant to section 58.007(c) of the Family Code. Accordingly, we agree the city must withhold Exhibit 2 from disclosure under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

You claim the suspect information in Exhibit 3 is excepted from disclosure under section 552.108 of the Government Code. Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You explain the information at issue pertains to a criminal investigation where no charges were filed by the Cleburne Police Department. Based on these representations and our review, we agree section 552.108(a)(2) is applicable to the information at issue. Therefore, the city may withhold the suspect information you have marked in Exhibit 3 under section 552.108(a)(2).

We note portions of the remaining information in Exhibit 3 are subject to section 552.130 of the Government Code. Section 552.130 provides that information relating to a motor vehicle title or registration issued by an agency of this state or another state or country is excepted from public release. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov’t Code § 552.130(a)(2)). We have marked the information that is subject to section 552.130. We note, however, that the requestor may have a right of access to the marked Texas motor vehicle record information. *See* Gov’t Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when an individual or authorized representative asks governmental body to provide information concerning that individual). Therefore, to the extent the requestor has a right of access under section 552.023 to the marked Texas motor vehicle record information, the city must release the Texas motor vehicle record information to this requestor. To the extent this requestor

does not have a right of access under section 552.023, the city must withhold the information we have marked under section 552.130 of the Government Code.¹

In summary, the city must withhold Exhibit 2 under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. The city may withhold the suspect information you have marked in Exhibit 3 under section 552.108 of the Government Code. Unless the requestor has a right of access under section 552.023 of the Government Code, the city must withhold the information we have marked in Exhibit 3 under section 552.130 of the Government Code. The city must release the remaining information in Exhibit 3.

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/em

Ref: ID# 432612

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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