



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 17, 2011

Ms. Judi S. Rawls  
Police Legal Counsel  
City of Beaumont  
P.O. Box 3827  
Beaumont, Texas 77704-3827

OR2011-14993

Dear Ms. Rawls:

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# 433133.

The Beaumont Police Department (the "department") received a request for information pertaining to a named incarcerated individual, including five specified convictions.<sup>1</sup> You state the department has released or will release some of the requested information. You assert the department is not required to comply with the request pursuant to section 552.028 of the Government Code. In the alternative, we understand you claim some of the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code. We have considered your arguments and reviewed the submitted information.

Section 552.028(a) provides a governmental body is not required to accept or comply with a request for information from either of the following:

- (1) an individual who is imprisoned or confined in a correctional facility; or

---

<sup>1</sup>We note the department asked for and received clarification 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); see *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

(2) an agent of that individual, other than that individual's attorney when the attorney is requesting information that is subject to disclosure under this chapter.

Gov't Code § 552.028(a). You assert the requestor is acting as the agent of the named individual, who is imprisoned or confined in a correctional facility. However, in this instance, the request for information reflects the requestor is a representative of the named individual's attorney. Thus, we conclude the requestor in this instance made this request in her capacity as a representative of the inmate's attorney for the purposes of section 552.028(a)(2) of the Government Code. Accordingly, the department is required to comply with her request.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section encompasses information protected by other statutes, such as section 58.007 of the Family Code. The relevant language of section 58.007 reads:

(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[.]

Fam. Code § 58.007(c), (e), (j)(1). Upon review, we find report numbers 2007-018317 and 2002-010592 pertain to juvenile delinquent conduct occurring after September 1, 1997; therefore, these reports are subject to section 58.007(c). *See id.* § 51.03(a) (defining "delinquent conduct" for purposes of title 3 of the Family Code); *see also id.* § 51.02(2) (defining "child" as person who is ten years of age or older and under seventeen years of age at the time of the conduct). You do not inform us, and it does not appear, that any of the exceptions in section 58.007 apply to the information in report number 2007-018317. Therefore, report number 2007-018317 is confidential under section 58.007(c) of the Family Code, and the department must withhold it in its entirety under section 552.101 of the Government Code. We note, however, the requestor is the representative of one of the juvenile offenders listed in report number 2002-010592. Under section 58.007(e), the requestor may inspect or copy law enforcement records concerning her client. *Id.* § 58.007(e). Section 58.007(j)(1) provides, however, that any personally identifiable information concerning other juvenile suspects, offenders, victims, or witnesses must be redacted. *See id.* § 58.007(j)(1). Accordingly, the department must withhold the information we have marked in report number 2002-010592 under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. As the department raises no further exceptions for the remaining information in report number 2002-010592, it must be released to this requestor.

Section 552.101 also encompasses laws that make criminal history record information ("CHRI") confidential. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal government or other states. Open Records Decision No. 565 at 7 (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 the Department of Public Safety ("DPS") maintains, except 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. Similarly, 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. *See id.* § 411.082(2)(B) (term CHRI does not include driving record information). Upon review, we

find none of the remaining information consists of CHRI for the purposes of chapter 411. Accordingly, none of the remaining information may be withheld under section 552.101 on that basis.

You also assert the serial numbers of stolen property that you have indicated are confidential under section 552.101. As previously noted, section 552.101 encompasses information that is considered to be confidential under other constitutional, statutory, or decisional law. *See* Gov't Code § 552.101. However, you do not cite to any specific law, and we are not aware of any, that makes the submitted serial numbers confidential under section 552.101. *See, e.g.,* Open Records Decision Nos. 611 at 1 (1992) (common-law privacy), 600 at 4 (1992) (constitutional privacy), 478 at 2 (1987) (statutory confidentiality). Therefore, the department may not withhold any of the submitted serial numbers under section 552.101 of the Government Code.

We understand you to assert some of the remaining information is excepted from disclosure under section 552.130 of the Government Code. Section 552.130 excepts from disclosure information that relates to a motor vehicle operator's license or driver's license, title, or registration issued by a Texas agency, or an agency of another state or country. *See* Act of May 24, 2011, 82<sup>nd</sup> Leg., R.S., S.B. 1638, § 4 (to be codified as amendments to Gov't Code § 552.130(a)(1)-(2)). We note section 552.130 protects personal privacy. Accordingly, because the requestor is the authorized representative of the named individual, she has a right of access to his driver's license number pursuant to section 552.023 of the Government Code. *See* Gov't Code § 552.023 (person's authorized representative has special right of access to information that is excepted from public disclosure under laws intended to protect person's privacy interest as subject of the information); *see also* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when person asks governmental body for information concerning the person himself or herself). Consequently, the department may not withhold the named individual's driver's license number from this requestor under section 552.130. However, the information we have marked does not pertain to the named individual and, thus, the department must withhold this information under section 552.130 of the Government Code.

Next, you seek to withhold portions of the remaining information under section 552.147 of the Government Code. This section 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(a). Section 552.147 is also based upon privacy interests. Accordingly, because the requestor is the authorized representative of the named individual, the department may not withhold the named individual's social security number from this requestor under section 552.147. *See id.* § 552.023; *see also* ORD 481 at 4. However, the department may withhold the remaining submitted social security numbers under section 552.147 of the Government Code.<sup>2</sup>

---

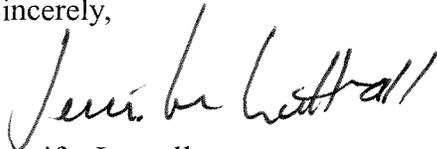
<sup>2</sup>Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

In summary, the department must withhold report number 2007-018317 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 have marked in report number 2002-010592 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 information we have marked under section 552.130 of the Government Code. With the exception of the named individual's social security number, the department may withhold the submitted social security numbers under section 552.147 of the Government Code. The remaining information must be released to this requestor.<sup>3</sup>

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](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 Luttrall  
Assistant Attorney General  
Open Records Division

JL/dls

Ref: ID# 433133

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

---

<sup>3</sup>We note the information being released contains information that is confidential with respect to the general public. *See* Fam. Code § 58.007(e); Gov't Code § 552.023; *see also* ORD 481 at 4. Thus, if the department receives another request for this information from a different requestor, the department must ask this office for a decision whether the information is subject to public disclosure.