



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 28, 2011

Ms. Cheryl K. Byles  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, Third Floor  
Fort Worth, Texas 76102

OR2011-15851

Dear Ms. Byles:

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# 434640 (CFW PIR No. W010910).

The City of Fort Worth (the "city") received a request for police records involving three named individuals. You state the city has released some information to the requestor. You further state the city will redact social security numbers under section 552.147(b) of the Government Code.<sup>1</sup> You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have not submitted information pertaining to one of the named individuals. Thus, to the extent such information existed and was maintained by the city on the date the city received the request for information, we presume the city has released it. If not, the city must do so at this time. *See* Gov't Code §§ 552.301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to the requested information, it must release the information as soon as possible).

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

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<sup>1</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. *See* Gov't Code § 552.147(b).

Code § 552.101. This section encompasses information protected by other statutes, such as section 58.007 of the Family Code, which provides in pertinent part as follows:

(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. *See id.* § 51.03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision"). For purposes of section 58.007(c), "child" means a person who is ten years of age or older and under

seventeen years of age. *See id.* § 51.02(2). For purposes of section 58.007(j)(1), a juvenile suspect or offender is a child as defined by section 51.02 of the Family Code. *See id.* A juvenile victim or witness, however, for purposes of section 58.007(j)(1) is a person who is under eighteen years of age. You state the submitted information is subject to section 58.007 of the Family Code. Upon review, we agree incident report numbers 06-85517, 06-86760, 09-113770, and 10-30962 constitute law enforcement records involving juvenile delinquent conduct or conduct indicating a need for supervision occurring after September 1, 1997. Thus, incident report numbers 06-85517, 06-86760, 09-113770, and 10-30962 are subject to section 58.007(c) of the Family Code.

In this instance, we are unable to determine the ages of the offenders at issue in incident report number 08-29059. Thus, we must rule conditionally. To the extent incident report number 08-29059 constitutes a record of a juvenile engaged in delinquent conduct or conduct indicating a need for supervision who was ten years of age or older and under seventeen years of age, then this report is also subject to section 58.007(c) of the Family Code. However, if incident report number 08-29059 pertains to an offender who was not ten years of age or older and under seventeen years of age, this report is not confidential pursuant to section 58.007. We also note for incident report number 10-30962 and incident report number 08-29059, to the extent it is subject to section 58.007(c), we have no indication the exceptions to confidentiality under section 58.007 apply. Thus, the city must withhold incident report number 10-30962 and incident report number 08-29059, to the extent it involves a juvenile suspect engaged in delinquent conduct or conduct indicating a need for supervision who was ten years of age or older and under seventeen years of age, under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

We note the requestor is the authorized representative of one of the juvenile offenders listed in incident report numbers 06-85517, 06-86760, and 09-113770. Under section 58.007(e), juveniles may inspect law enforcement records concerning themselves. *See id.* § 58.007(e). Therefore, pursuant to section 58.007(e), the requestor, with the individuals' consent, has a right to inspect incident report numbers 06-85517, 06-86760, and 09-113770. We note, however, personally identifying 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). Accordingly, we have marked the information that must be withheld 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) protects information that is excepted from required disclosure under the Act or other law. *See id.* § 58.007(j)(2). As such, we will consider whether this information must be withheld under the Act. We will also consider whether any portion of incident report number 08-29059 is excepted under the Act, to the extent it pertains to an offender who is not ten years of age or older and under seventeen years of age.

You state you have redacted certain Texas motor vehicle record information under section 552.130 of the Government Code pursuant to the previous determinations issued to

the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007).<sup>2</sup> We note the submitted information contains additional motor vehicle record information subject to section 552.130 of the Government Code. Section 552.130 excepts from disclosure information related to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country and information related to a motor vehicle title or registration issued by an agency of this state or another state or country. 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). Accordingly, the city must withhold the marked motor vehicle record information under section 552.130.

In summary, the city must withhold the information we have marked in incident report numbers 06-85517, 06-86760, and 09-113770 under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. The city must withhold incident report number 10-30962 under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. To the extent incident report number 08-29059 constitutes a record of a juvenile engaged in delinquent conduct or conduct indicating a need for supervision who was ten years of age or older and under seventeen years of age, the city must withhold this information under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. The city must withhold the marked motor vehicle record information under section 552.130 of the Government Code.<sup>3</sup> 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](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free,

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<sup>2</sup>Open Records Letter Nos. 2006-14726 and 2007-00198 are previous determinations to the city authorizing it to withhold certain Texas motor vehicle record information under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. However, on September 1, 2011, the Texas legislature amended section 552.130 to allow a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3) without the necessity of seeking a decision from the attorney general. *See* Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, § 22 (to be codified at Gov't Code § 552.130(c)). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See* Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, § 22 (to be codified at Gov't Code § 552.130(d), (e)). Thus, the statutory amendments to section 552.130 of the Government Code supercede Open Records Letter Nos. 2006-14726 and 2007-00198 on September 1, 2011. Therefore, a governmental body may only redact information subject to subsections 552.130(a)(1) and (a)(3) in accordance with section 552.130, not Open Records Letter Nos. 2006-14726 and 2007-00198.

<sup>3</sup>Because the requestor has a special right of access to the information being released, the city must again seek a ruling from this office if the it receives another request for this information from a different requestor.

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,

A handwritten signature in cursive script that reads "Kirsten Brew".

Kirsten Brew  
Assistant Attorney General  
Open Records Division

KB/em

Ref: ID# 434640

Enc. Submitted documents

c: Requestor  
(w/o enclosures)