



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 15, 2011

Mr. Tyler F. Wallach
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, Third Floor
Fort Worth, Texas 76102

OR2011-18454

Dear Mr. Wallach:

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# 439226 (Fort Worth PIR No. W012022).

The City of Fort Worth (the "city") received a request for a specified offense report. The requestor is a representative of the city's school district. You state you have redacted certain 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).¹ You further state you have redacted a social security

¹Open 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.

number pursuant to the section 552.147 of the Government Code.² You claim that the submitted 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 public 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 made confidential by other statutes, such as section 58.007 of the Family Code, which protects juvenile law enforcement records related to delinquent conduct and conduct indicating a need for supervision that occurred on or after September 1, 1997. 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.

Fam. Code § 58.007(c). For purposes of section 58.007(c), a “child” is a person who was ten years of age or older and under seventeen years of age. *Id.* § 51.02(2). The submitted information reflects one of the suspects in the case at issue was fourteen years old at the time of the incident. Accordingly, we find the submitted information involves a juvenile engaged in delinquent conduct that occurred after September 1, 1997. *See id.* § 51.03(a) (defining “delinquent conduct”). It does not appear any of the exceptions in section 58.007 apply. Therefore, the submitted information is confidential under section 58.007(c) of the Family Code.

²Section 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. *See* Gov’t Code § 552.147(b).

The requestor states, however, that the city may release the requested report “per [the] intergovernmental agency agreement.” For many years, this office has recognized that it is the public policy of this state that governmental bodies should cooperate with each other in the interest of the efficient and economical administration of statutory duties. In adherence to this policy, this office has acknowledged in numerous opinions and decisions that information may be transferred between governmental bodies without violating its confidential character on the basis of a recognized need to maintain an unrestricted flow of information between governmental bodies. *See, e.g.*, Attorney General Opinions GA-0055 (2003), H-836 (1976), M-713 (1970); Open Records Decision Nos. 667 (2000), 661 (1999). This office has also found, however, that an interagency transfer is prohibited where a confidentiality statute enumerates specific entities to which release of confidential information is authorized and the receiving agency is not among those enumerated entities. *See* Attorney General Opinions GA-0055 (2003), JM-590 (1986); Open Records Decision Nos. 655 (1997). This is so because where the statute lists the entities authorized to receive confidential information, a release to an unlisted entity would be contrary to the legislative intent of the statute. *See* Attorney General Opinion JM-590 at 4 (1986) (stating that legislature’s express mention or enumeration of one person, thing, consequence, or class is tantamount to express exclusion of all others).

Section 58.007(c) enumerates specific entities that may receive and inspect confidential juvenile information. *See* Fam. Code § 58.007(c), (d), (e), (f) (indicating circumstances under which certain entities may receive juvenile law enforcement records). A school district, however, is not among these listed entities. *But see* Crim. Proc. Code art. 15.27 (requiring law enforcement agencies to notify school officials about arrest or referral of child for violation of certain offenses). Therefore, since the city may not release the submitted information to the requestor under section 58.007 or the interagency transfer doctrine, we conclude that the submitted information must be withheld in its entirety under section 552.101 of the Government Code. *See* Open Records Decision No. 680 (2003) (interagency transfer doctrine cannot operate to allow police department to transfer certain confidential juvenile information to school district).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

³As our ruling is dispositive for this information, we need not address your remaining arguments against its disclosure.

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 "Sean Opperman". The signature is written in black ink and is positioned above the typed name.

Sean Opperman
Assistant Attorney General
Open Records Division

SO/dls

Ref: ID# 439226

Enc. Submitted documents

c: Requestor
(w/o enclosures)