



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 30, 2012

Mr. Marc J. Schnall
Attorney for the City of Selma
Langley & Banack Incorporated
Trinity Plaza 11
745 East Mulberry, Suite 900
San Antonio, Texas 78212-3166

OR2012-01501

Dear Mr. Schnall:

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# 443994.

The Selma Police Department (the "department"), which you represent, received a request for the full copy of a specified incident report. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 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, such as section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. 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.

Fam. Code § 58.007(c). 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). Upon review, we are unable to determine the ages of the suspects at issue at the time of the incident in question, and we must rule conditionally. To the extent the submitted information constitutes a record of a juvenile suspect engaged in delinquent conduct who is ten years of age or older and under seventeen years of age at the time of the commission of the crime, it is confidential pursuant to section 58.007 of the Family Code and must be withheld under section 552.101 of the Government Code. However, to the extent this information does not pertain to a suspect who is ten years of age or older and under seventeen years of age at the time of the commission of the crime, the department may not withhold it under section 552.101 on the basis of section 58.007. In that case, we will consider your remaining arguments against disclosure.

Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than a 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)(1)(A); Open Records Decision No. 434 at 2–3 (1986). You state the submitted information relates to an investigation that has concluded and did not result in a conviction or deferred adjudication. Based on this representation and our review, we conclude the department may withhold the information you have marked under section 552.108(a)(2) of the Government Code.

Section 552.130 of the Government Code excepts from public disclosure information relating to a driver’s license or motor vehicle title or registration issued by an agency of this state or another state or country. Gov’t Code § 552.130. We note, however, the license plate issuing state does not constitute motor vehicle records information for purposes of section 552.130. You have marked motor vehicle record information that is subject to section 552.130 of the Government Code. However, the requestor in this instance is the insurance provider for one of the individuals listed in the submitted information. As such, the requestor, if acting as the individual’s authorized representative, has a right of access to his insured’s marked motor vehicle record information. *See id.* § 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). In this instance, it is not clear that the requestor is acting as the individual’s authorized representative. Therefore, we must rule conditionally. To the extent the requestor has a right of access under section 552.023 to his insured’s motor vehicle record information, the department must release this information to the requestor. To the extent the requestor does not have a right

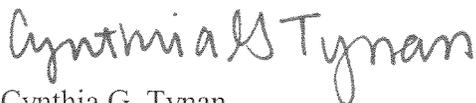
of access to his insured's information under section 552.023, with the exception of the license plate issuing state, the department must withhold all of the motor vehicle record information you have marked under section 552.130 of the Government Code. In either instance, with the exception of the license plate issuing state, the department must withhold the remaining information you have marked under section 552.130 of the Government Code.

In summary, to the extent the submitted information constitutes a record of a juvenile engaged in delinquent conduct who was ten years of age or older and under seventeen years of age at the time of the commission of the crime, the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. Otherwise, the department may withhold the information you have marked under section 552.108(a)(2) of the Government Code, and, to the extent the requestor does not have a right of access under section 552.023 of the Government Code to his insured's motor vehicle record information, with the exception of the issuing state, the department must withhold the information you have marked under section 552.130 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,



Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/em

Ref: ID# 443994

Enc. Submitted documents

c: Requestor
(w/o enclosures)