



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 21, 2012

Mr. Mark G. Daniel
City Attorney
City of Watauga
Suite 202
115 West Second Street
Fort Worth, Texas 76102

OR2012-02533

Dear Mr. Daniel:

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# 447496.

The Watauga Police Department (the "department"), which you represent, received a request for a police report related to a specified incident. You state that you have released some of the requested information. You claim that portions of the submitted information are excepted from disclosure under sections 552.101 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 section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct by a child that occurred on or after September 1, 1997. Fam. Code § 58.007(c). Section 58.007 provides:

(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.

Id. § 58.007(c), (e), (j). *See also id.* § 51.02(2) (defining "child" as a person who is ten years of age or older and younger than seventeen years of age). The submitted information involves conduct by children that occurred after September 1, 1997, and constitutes delinquent conduct or conduct indicating a need for supervision. *See id.* § 51.03 (defining "delinquent conduct" and "conduct indicating a need for supervision" for purposes of Fam. Code § 58.007). Therefore, the submitted information is subject to section 58.007. In this instance, as you acknowledge, the requestor is the parent of one of the children named in the information. Accordingly, section 58.007(e) allows her access to her child's law

enforcement records. *Id.* § 58.007(e). However, the department must withhold any personally identifiable information about other juvenile suspects, offenders, or witnesses who are not the requestor's child. *See id.* § 58.007(j)(1). Accordingly, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. We find the remaining information you have highlighted does not identify a juvenile for the purposes of section 58.007. Therefore it may not be withheld on that basis. Section 58.007(j)(2) provides that information subject to any other exception under the Act or other law must be redacted. *See id.* § 58.007(j)(2). Accordingly, we address your arguments under section 552.130 of the Government Code.

Section 552.130 excepts from public disclosure information relating to a driver's license issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(1). You have marked a driver's license number that is subject to section 552.130 of the Government Code. We note section 552.130 protects personal privacy. Accordingly, because the requestor is an authorized representative of the individual whose information you marked, she has a right of access to the number pursuant to section 552.023 of the Government Code. *See id.* § 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 driver's license number you marked from this requestor under section 552.130.

In summary, the department must withhold the information we have marked under section 552.101 in conjunction with section 58.007(j)(1) of the Family Code. The remaining information must be released.¹

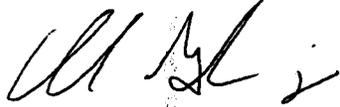
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

¹We note the requestor in this case has a special right of access under section 58.007(e) of the Family Code to the information being released. If the department receives another request for this same information from a different requestor, it must again seek a ruling from this office.

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 black ink, appearing to read "CG Jr.", written in a cursive style.

Charles Galindo Jr.
Assistant Attorney General
Open Records Division

CG/som

Ref: ID# 447496

Enc. Submitted documents

c: Requestor
(w/o enclosures)