



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 6, 2012

Ms. Cara Leahy White
Counsel for the City of Euless
Taylor, Olson, Adkins, Sralla, and Elam
6000 Western Place, Suite 200
Fort Worth, Texas 76107

OR2012-08711

Dear Ms. White:

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# 455595.

The Euless Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident. You claim the submitted information is exempted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code exempts 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. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. 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 at the time of the reported conduct. *See* Fam. Code § 51.02(2). The relevant language of section 58.007 reads 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:

...

(2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law.

Id. § 58.007(c), (e), (j)(2). The submitted incident report involves a thirteen-year-old suspected of aggravated assault. Thus, we find the report involves juvenile delinquent conduct. *See id.* § 51.03(a) (defining "delinquent conduct" for purposes of section 58.007). Therefore, the submitted information is within the scope of section 58.007(c). However, the requestor is the step-parent of the juvenile suspect listed in the report and may have a right of access to information otherwise made confidential by section 58.007(c). *See id.* § 58.007(e) (law enforcement records may be inspected by child's parent or guardian). As we are unable to determine whether the requestor is acting as the juvenile suspect's parent's authorized representative or is the juvenile suspect's guardian, we must rule conditionally. If the department determines the requestor is not acting as the authorized representative of the juvenile's parent or not a guardian of the juvenile suspect, the department must withhold the submitted information in its entirety under section 552.101 in of the Government Code in conjunction with section 58.007(c) of the Family Code. If the department determines the requestor is acting as the authorized representative of the juvenile's parent or is a guardian

of the juvenile suspect, the department may not withhold the submitted information from the requestor on the basis of section 58.007(c) of the Family Code. However, section 58.007(j)(2) provides before a juvenile's guardian or an authorized representative of the juvenile's parent may inspect the information, the department must withhold information that is excepted from required disclosure under the Act or other law. *See id.* § 58.007(j)(2). Accordingly, we will address the applicability of section 552.130 to this information.

You state you will redact driver's license numbers in accordance with section 552.130(c) of 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. *See Gov't Code* § 552.130(a)(1). The submitted information contains the requestor's and the requestor's wife's driver's license numbers. Section 552.023(a) of the Government Code provides "[a] person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests." *Id.* § 552.023. Because section 552.130 protects privacy interests, the requestor has a right of access to his own driver's license number and, if the requestor is acting as his wife's authorized representative, he also has a right of access under section 552.023 to her driver's license number. However, if the requestor is not acting as his wife's authorized representative, the department may redact the requestor's wife's driver's license number under section 552.130 of the Government Code. *Id.* § 552.130(c).

In summary, if the requestor is not the authorized representative of the juvenile's parent or not a guardian of the juvenile suspect, the submitted information must be withheld in its entirety under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. If the requestor is acting as the authorized representative of the juvenile's parent or is a guardian of the juvenile suspect, the department must release the submitted information to the requestor under section 58.007(e) of the Family Code. In the event the requestor is the juvenile suspect's guardian, but is not acting as his wife's authorized representative, the department must withhold the requestor's wife's driver's license under section 552.130 of the Government Code and 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.

¹We note some of the information that may be released contains confidential information to which the requestor has a right of access. *See Fam. Code* § 58.007(e); *Gov't Code* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual or authorized representative asks governmental body to provide information concerning that individual). Thus, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.

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,

A handwritten signature in black ink, appearing to read "Michelle R. Garza", with a long horizontal line extending to the right.

Michelle R. Garza
Assistant Attorney General
Open Records Division

MRG/som

Ref: ID# 455595

Enc. Submitted documents

c: Requestor
(w/o enclosures)