



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 8, 2012

Ms. Delietrice Henry
Open Records Assistant
City of Plano
P.O. Box 860358
Plano, Texas 75086-0358

OR2012-12451

Dear Ms. Henry:

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# 461635 (ORR# HUYTO51712).

The Plano Police Department (the "department") received a request for a specified arrest report. You state you have released some of the requested information to the requestor. You claim portions of the submitted information are excepted 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 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, including section 58.007 of the Family Code, which provides for the confidentiality of juvenile law enforcement records related to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. *See* Open Records Decision No. 680 at 4 (2004); *see also* Fam. Code § 51.03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision"). 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.

...

(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). 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 id.* § 51.02(2). Upon review, we agree the submitted report involves juveniles engaged in delinquent conduct that occurred on or after September 1, 1997. Accordingly, the submitted report is subject to section 58.007 of the Family Code. We note the requestor is a juvenile offender listed in the report. Therefore, as you acknowledge, the requestor has a right of access to the submitted report. *See id.* § 58.007(e). You seek to withhold the identifying information of two other offenders and a witness in the submitted report under

section 58.007(j)(1). However, we note a portion of the information you have marked pertains to an offender who was seventeen years of age at the time of the conduct at issue. Thus, that individual is not a child for the purposes of section 58.007. *See id.* § 51.02(2). Therefore, the department may not withhold the identifying information of that individual pursuant to section 58.007(j)(1) of the Family Code. Upon review, we find the department must withhold the identifying information of a juvenile offender and a juvenile witness, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Government Code. However, we find none of the remaining information at issue identifies a juvenile suspect, offender, victim, or witness other than the requestor. Thus, none of the remaining information may be withheld under section 552.101 in conjunction with section 58.007. However, section 58.007(j)(2) provides that information subject to any other exception to disclosure under the Act or other law must also be redacted. *See id.* § 58.007(j)(2). Accordingly, we will address the applicability of section 552.130 to the submitted information.¹

Section 552.130 of the Government Code excepts from public release information related to a motor vehicle operator's or driver's license issued by a Texas agency or an agency of another state or country. Gov. Code § 552.130. Therefore, the department must withhold the driver's license number we have marked in the submitted report.

In summary, 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 Government Code and the driver's license we have marked under section 552.130 of the Government Code. The remaining information must be released to the requestor.²

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

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²We note the requestor has a special right of access to the information the department is releasing. *See* Fam. Code § 58.007(e). Because such information is confidential with respect to the general public, if the department receives another request for this information from a different requestor, the department 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 that reads "Kristi L. Wilkins". The signature is written in a cursive style with a large initial "K" and "W".

Kristi L. Wilkins
Assistant Attorney General
Open Records Division

KLW/ag

Ref: ID# 461635

Enc. Submitted documents

c: Requestor
(w/o enclosures)