



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 10, 2012

Ms. Michelle M. Kretz
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2012-16205

Dear Ms. Kretz:

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# 469761 (PIR No. W019409).

The City of Fort Worth (the "city") received a request for a police report involving a named individual and a specified address. You state the city has redacted a driver's license number pursuant to section 552.130(c) of the Government Code.¹ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note some of the submitted information, which we have marked, is not responsive because it was created after the date the city received the instant request. The city need not release non-responsive information in response to this request and this ruling will not address that 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. Juvenile law enforcement records relating to conduct that occurred on or after

¹Section 552.130(c) authorizes 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* 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 id.* § 552.130(d), (e).

September 1, 1997, are confidential under section 58.007(c) of the Family Code. This section provides 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:

(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.

Fam. Code § 58.007(c), (e), (j). Upon review, we agree the responsive information consists of a law enforcement record of a juvenile engaged in delinquent conduct after September 1, 1997. *See id.* §§ 51.02(2) (for purposes of section 58.007, "child" means person who is ten years of age or older and under seventeen years of age), .03(a) (defining "delinquent conduct" for purposes of section 58.007). In this instance, however, the requestor is a parent of the juvenile suspect in the responsive information. Thus, pursuant

to section 58.007(e), the city may not withhold this information from the requestor under section 58.007(c). *See id.* § 58.007(e). However, section 58.007(j)(2) states before a child's parent may inspect or copy a record or file concerning the child under 58.007(e), the custodian of the record shall redact information that is excepted from required disclosure under the Act or other law. *See id.* § 58.007(j)(2). Accordingly, we will address your remaining argument.

Section 552.101 of the Government Code also encompasses section 261.201 of the Family Code, which provides as follows:

(a) Except as provided by Section 261.203, the following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Id. § 261.201(a). You seek to withhold the responsive information under section 261.201(a) of the Family Code. Upon review, however, we find you have failed to demonstrate how any of the responsive information pertains to a report made or an investigation conducted under chapter 261 of the Family Code. *See id.* § 261.001(1), (4) (defining "abuse" and "neglect" for purposes of Family Code ch. 261). Therefore, we find none of the responsive information is confidential pursuant to section 261.201 of the Family Code. Accordingly, the department may not withhold any of the responsive information under section 552.101 of the Government Code on that basis. As you raise no further exceptions to disclosure, the city must release the responsive information 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.

²Because the requestor has a right of access to the information being released, the city must again seek a decision from this office if it receives another request for the same information from another requestor. We note, and you acknowledge, the information being released contains social security numbers. Section 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. *See Gov't Code* § 552.147(b). However, we note the requestor has a right of access to his children's social security numbers and they must be released to him. *See generally id.* § 552.023(a).

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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/bhf

Ref: ID# 469761

Enc. Submitted documents

c: Requestor
(w/o enclosures)