



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 22, 2013

Ms. Donna L. Johnson
Counsel for City of Memorial Villages
Olson & Olson LLP
2727 Allen Parkway, Suite 600
Houston, Texas 77019-2133

OR2013-01228

Dear Ms. Johnson:

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# 480902 (No. MVPD12-013).

The Memorial Villages Police Department (the "department"), which you represent, received a request for information involving a named individual. You claim the requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

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. This exception encompasses information made confidential by other statutes, including section 58.007 of the Family Code, which provides in 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 [the Act] or other law.

Fam. Code § 58.007(c), (e), (j); *see id.* § 51.03(a)-(b) (defining "delinquent conduct" and "conduct indicating need for supervision" for purposes of Fam. Code tit. 3). Section 58.007(c) is applicable to records of juvenile conduct that occurred on or after September 1, 1997. *See* Act of June 2, 1997, 75th Leg., R.S., ch. 1086, §§ 20, 55(a), 1997 Tex. Gen. Laws 4179, 4187, 4199; Open Records Decision No. 644 (1996). Although the submitted information involves juvenile suspects, so as to be generally confidential under section 58.007(c) of the Family Code, the requestor is an attorney for one of the juveniles. As such, the requestor has a right to inspect juvenile law enforcement records concerning his client pursuant to section 58.007(e). *See* Fam. Code § 58.007(e). Section 58.007(j) provides, however, that any personally identifiable information concerning other juvenile suspects, offenders, victims, or witnesses must be redacted. *See id.* § 58.007(j)(1). For purposes of section 58.007(j)(1), a juvenile suspect or offender is a child as defined by section 51.02 of the Family Code. *See id.* § 51.02(2) ("child" means a person who is ten years of age or older and under seventeen years of age). You have highlighted the information you contend would identify the other juvenile suspects. Except for the

information we have marked for release, we conclude the department must withhold the information you have highlighted and the additional information we have marked under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code.

Section 58.007(j) of the Family Code also provides that any information excepted from disclosure under the Act or other law must be withheld. *See id.* § 58.007(j)(2). Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state or another state or country. *See Gov't Code* § 552.130(a)(2). We note section 552.130 protects personal privacy. Therefore, the requestor has a right of access to his client's driver's license information under section 552.023 of the Government Code. *See id.* § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself).¹ Thus, that information, which we have marked, may not be withheld under section 552.130 but must be released pursuant to section 552.023. We conclude the department must withhold the remaining driver's license and motor vehicle information you have highlighted and the additional information we have marked under section 552.130 of the Government Code.

In summary, the department must withhold: (1) the information you have highlighted that identifies the other juvenile suspects, except for the information we have marked for release, and the additional information we have marked to be withheld under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code and (2) the driver's license and motor vehicle information you have highlighted, except for the information we have marked for release, and the additional information we have marked to be withheld under section 552.130 of the Government Code. The department must release the rest of the submitted information to this requestor pursuant to section 58.007(e) of the Family Code.²

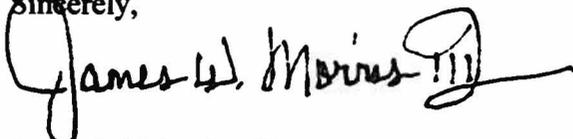
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

¹Section 552.023 provides in part that "[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." *Gov't Code* § 552.023(a).

²Because the present requestor has a right of access to information the department would be required to withhold from a member of the general public, the department should resubmit this same information and request another decision if it receives another request for the information from a different requestor. *See Gov't Code* §§ 552.301(a), .302.

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 that reads "James W. Morris, III". The signature is written in a cursive style with a long horizontal stroke at the end.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/bhf

Ref: ID# 480902

Enc: Submitted documents

c: Requestor
(w/o enclosures)