ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 25, 2013

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

OR2013-04818

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# 486579 (ORR# HERJ021513).

The Plano Police Department (the "department") received a request for information pertaining to a specified incident. You claim some of 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.

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 section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. The relevant language of section 58.007 reads:

> (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;
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> (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.
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> . . .
>
> (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). 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). You assert, and we agree, the submitted information involves juvenile delinquent conduct that occurred after September 1, 1997. *See id* § 51.03 (defining "delinquent conduct" for purposes of Fam. Code § 58.007). Thus, this information is subject to section 58.007. However, the documents at issue reveal the requestor is a juvenile suspect listed in the report at issue, and is now an adult. Therefore, the requestor may inspect or copy any law enforcement records concerning himself under section 58.007(e). *Id.* § 58.007(e). Accordingly, the information at issue may not be withheld from this requestor on the basis of section 58.007(c). However, section 58.007(j)(1) provides any personally identifiable information concerning other juvenile suspects, offenders, victims, or witnesses must be redacted. *See id.* § 58.007(j)(1).

Therefore, the department must withhold the personally identifiable information concerning the other juvenile suspect, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. However, we note the remaining information you seek to withhold does not identify other juvenile suspects, offenders, victims, or witnesses. Accordingly, the remaining information may not be withheld under section 552.101 in conjunction with section 58.007(j)(l). Further, section 58.007(j)(2) provides information subject to any other exception to disclosure under the Act or other law must be redacted. *See id.* § 58.007(j)(2). We note portions of the remaining information are subject to section 552.130 of the Government Code.[1] Therefore, we will address the applicability of this exception to the remaining information.

Section 552.130 of the Government Code excepts from disclosure information relating 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)(1)-(2). Upon review, we find the information contains a motor vehicle record information, which we have marked. We note section 552.130 protects personal privacy. In this instance, it is not clear whether the information at issue belongs to the requestor. As such, the requestor may have a right of access to this marked information, and we must rule conditionally. *See id.* § 552.023(a) ("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."); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, to the extent the requestor has a right of access under section 552.023 to the marked information, the department must release this information to the requestor. To the extent the requestor does not have a right of access under section 552.023, the department must withhold the information we have marked under section 552.130.

In summary, the department must withhold the personally identifiable information concerning the other juvenile suspect, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. The department must generally withhold the information we have marked under section 552.130 of the Government Code. However, to the extent the requestor has a right of access to the motor vehicle record information, the department must release this information to the requestor. The department must release the remaining information pursuant to section 58.007(e) of the Family Code.[2]

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[1]The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

[2]We note the information being released in this instance includes information that is confidential with respect to the general public. Therefore, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.

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 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,

Paige Lay

Paige Lay
Assistant Attorney General
Open Records Division

PL/bhf

Ref: ID# 486579

Enc. Submitted documents

cc: Requestor
(w/o enclosures)