



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 6, 2017

Mr. Whitt L. Wyatt  
Counsel for the City of Colleyville  
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500 North Akard Street  
1800 Ross Tower  
Dallas, Texas 75201

OR2017-14988

Dear Mr. Wyatt:

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# 664592 (ORR# 85725).

The City of Colleyville (the "city"), which you represent, received a request for information pertaining to a specified incident involving a named individual. The city indicates it released some of the requested information. The city claims the submitted video recording is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions the city claims and reviewed the submitted information.

Initially, we must address the city's obligations under section 552.301 of the Government Code, which prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. *See Gov't Code* § 552.301. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. *See id.* § 552.301(b). Further, pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the

documents. *See id.* § 552.301(e). The city received the request for information on April 24, 2017. The city does not inform us it was closed for any business days between April 24, 2017, and May 8, 2017. Accordingly, the city was required to provide the information required by section 552.301(b) by May 8, 2017. Moreover, the city was required to provide the information required by section 552.301(e) by May 15, 2017. We note the city timely requested a ruling from this office on April 28, 2017, and submitted media at that time that purported to contain the responsive information. However, the media at issue did not in fact contain the video recording at issue. Further, the envelope in which the city provided a copy of the responsive video recording required by section 552.301(e) was postmarked June 8, 2017. *See id.* § 552.308(a)(1) (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Accordingly, we conclude the city failed to comply with the procedural requirements mandated by section 552.301 of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ). The city claims section 552.101 and 552.130 of the Government Code for the submitted information. Because sections 552.101 and 552.130 of the Government Code can provide compelling reasons to overcome the presumption of openness, we will consider the applicability of these exceptions to 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. This section encompasses information protected by other statutes. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are confidential under section 58.007(c) of the Family Code, which 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:

(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). We note section 58.007(c) does not apply to law enforcement records that relate to a juvenile involved only as a complainant, victim, witness, or other involved party; rather, the juvenile must be involved as a suspect, offender, or defendant. Upon review, we find the information at issue involves delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. *See id.* § 51.03 (defining "delinquent conduct" and "conduct indicating a need for supervision" for purposes of Fam. Code § 58.007). However, we are unable to determine the ages of the suspects listed in the information at issue. Accordingly, we must rule in the alternative. If none of the suspects at issue were ten years of age or older and under seventeen years of age at the time of the conduct, then the information does not involve juvenile conduct for purposes of section 58.007(c) of the Family Code, and no portion of the information at issue may be withheld under section 552.101 of the Government Code on that basis. However, if any of the suspects at issue were ten years of age or older and under seventeen years of age at the time of the conduct at issue, then the city must generally withhold the information at issue in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

In this instance, the requestor may be a parent or guardian of one of the juvenile offenders in the information at issue. As we are unable to make this determination, we must rule in the

alternative. If the requestor is not a parent or guardian of one of the juvenile offenders at issue, then, as it does not appear any of the exceptions in section 58.007 apply, the city must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

However, if the requestor is a parent or guardian of one of the juvenile offenders, then this requestor has a right to inspect information concerning the child under section 58.007(e), and it may not be withheld from this requestor under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. *Id.* § 58.007(e). In that instance, 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).

If the information is not subject to section 58.007(c) of the Family Code or if the requestor is a parent of a juvenile offender and has a right of access to the information under section 58.007(e) of the Family Code, then we must address the applicability of section 552.130 of the Government Code against disclosure of the submitted information. Section 552.130 excepts from disclosure information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See Gov't Code* § 552.130. The city asserts, and we agree, the submitted video recording contains confidential motor vehicle record information that is excepted from disclosure under section 552.130. In this instance, the city states it does not possess the technological capability to redact information from video files. Thus, we agree the city must withhold the entirety of the submitted video recording under section 552.130 of the Government Code. *See Open Records Decision No. 364 (1983).*

In summary, if any of the suspects in the submitted information were ten years of age or older and under seventeen years of age at the time of the conduct at issue and if the requestor is not a parent or guardian of one of the juvenile offenders at issue, then the city must withhold the submitted video recording in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. If none of the suspects at issue were ten years of age or older and under seventeen years of age or at the time of the conduct or if the requestor is a parent or guardian of one of the juvenile offenders, then the city must withhold the entirety of the submitted video recording under section 552.130 of the Government Code.

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.texasattorneygeneral.gov/open/>

[orl\\_ruling\\_info.shtml](#), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Claire Morris Sloan". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/som

Ref: ID# 664592

Enc. Submitted documents

c: Requestor  
(w/o enclosures)