



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 8, 2009

Mr. Paul F. Weineske  
204 South Mesquite  
Arlington, Texas 76010

OR2009-04683

Dear Mr. Weineske:

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# 339444.

The Euless Police Department (the "department"), which you represent, received a request for reports related to a named individual for a specified time period. You claim that 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 other statutes, such as section 58.007 of the Family Code. The relevant language of section 58.007 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:

(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 Subchapter 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). Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. For purposes of section 58.007, "child" means a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). Exhibits B-4 and C-1 through C-10 involve juvenile delinquent conduct and conduct indicating a need for supervision occurring after September 1, 1997; therefore, these exhibits are subject to section 58.007(c). Section 58.007(e) allows the review or copy of juvenile law enforcement records by a child's parent or guardian. *Id.* § 58.007(e). We note, and you acknowledge, that the requestor is the parent of the juvenile offender; therefore, the information pertaining to the requestor's child may not be withheld under section 552.101 of the Government Code in conjunction with section 58.007. *See id.* However, section 58.007(j)(2) states that a governmental body must redact any information that is excepted from disclosure under the Act. *See id.* § 58.007(j)(2). We note that the submitted information contains information protected by common-law privacy and Texas motor vehicle record information. Accordingly, we address sections 552.101 and 552.130 of the Government Code.

Section 552.101 encompasses the doctrine of common-law privacy. Common-law privacy protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. In addition, this office has found that medical information or information indicating disabilities or specific illnesses is excepted from required public disclosure under common-law privacy. See Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps).

Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy. Here, although you seek to withhold Exhibits B-1 through B-3 in their entirety, you have not demonstrated, nor does it otherwise appear, that this is a situation where the entire reports must be withheld on the basis of common-law privacy. However, we agree that some of the submitted information in Exhibits B-1 through B-3, C-1, C-2, and C-7 is highly intimate or embarrassing and not of legitimate public interest. We note, however, the requestor is the parent of a minor child whose private information is at issue and therefore has a special right of access to information that would ordinarily be withheld to protect the minor's privacy interests. See Gov't Code § 552.023(b) (governmental body may not deny access to person or person's representative to whom information relates on grounds that information is considered confidential under privacy principles). Thus, information that pertains to the requestor's child in Exhibits B-1 through B-3 may not be withheld on the basis of common-law privacy. Accordingly, the department must only withhold the information we have marked under section 552.101 in conjunction with common-law privacy.

We note that Exhibits C-1 and C-2 include Texas motor vehicle record information subject to section 552.130 of the Government Code.<sup>1</sup> Section 552.130 excepts from disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state." Gov't Code § 552.130. Accordingly, the department must withhold the Texas license plate numbers we have marked in Exhibits C-1 and C-2 under section 552.130 of the Government Code.

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<sup>1</sup>The 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).

In summary, the department must withhold the information we have marked in Exhibits C-1, C-2, and C-7 under section 552.101 in conjunction with common-law privacy. The department must withhold the Texas driver's license numbers we have marked in Exhibits C-1 and C-2 under section 552.130 of the Government Code. The remaining information must be released.<sup>2</sup>

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](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 at (512) 475-2497.

Sincerely,



Christina Alvarado  
Assistant Attorney General  
Open Records Division

CA/rl

Ref: ID# 339444

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

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<sup>2</sup>We note that because the requestor has a special right of access to some of the information in this instance, the department must again seek a decision from this office if it receives another request for the same information from another requestor. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on grounds that information is considered confidential by privacy principles); *see also* Fam. Code § 58.007(e).