



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 25, 2011

Ms. Tiffany Bull  
Assistant City Attorney  
City of Arlington  
P.O. Box 1065  
Arlington, Texas 76004

OR2011-05616

Dear Ms. Bull:

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# 418529 (ORR# 3376-030711).

The Arlington Police Department (the "department") received two requests for information: the first for all incident and offense reports pertaining to a specified address since October 31, 1994, and the second for "accident reports and offense reports from 6/1/10 thru 6/6/10." You indicate the department has released some of the requested information, but 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. We have also considered comments submitted by an attorney at the requestor's law firm. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

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. Section 58.007(c) provides as follows:

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 Subchapter B.

Fam. Code § 58.007(c). Exhibit B consists of two offense reports that involve alleged juvenile delinquent conduct occurring after September 1, 1997. None of the exceptions in section 58.007 appears to apply. Therefore, Exhibit B is confidential pursuant to section 58.007(c) of the Family Code and the department must withhold it under section 552.101 of the Government Code.

Section 552.101 also 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. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated 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.

You argue the incident reports in Exhibit C must be withheld in their entirety on the basis of common-law privacy. However, you have not demonstrated, nor does it otherwise appear, this is a situation in which the entirety of these reports must be withheld on the basis of common-law privacy. Thus, the department may not withhold Exhibit C in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. Nevertheless, we find some of the information in these reports is highly intimate or embarrassing and is not of legitimate concern to the public; therefore, the department must withhold this information, which we have marked, under section 552.101 in conjunction with common-law privacy. Upon review, however, we find the remaining information is not highly intimate or embarrassing; therefore, the remaining information is not confidential under common-law privacy, and the department may not withhold it under section 552.101 on that ground.

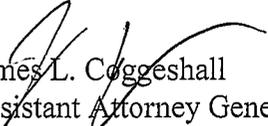
Some of the remaining information is excepted from disclosure under section 552.130 of the Government Code.<sup>1</sup> Section 552.130 provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). The department must withhold the Texas motor vehicle record information we have marked under section 552.130.<sup>2</sup>

To conclude, the department must withhold Exhibit B under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code and the information we have marked in Exhibit C under section 552.101 in conjunction with common-law privacy and under section 552.130 of the Government Code. The department must release the remaining information.

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, toll free, at (888) 672-6787.

Sincerely,

  
James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/tf

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<sup>1</sup>The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. See Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987); see, e.g., Open Records Decision No. 470 at 2 (1987) (because release of confidential information could impair rights of third parties and because improper release constitutes a misdemeanor, attorney general will raise predecessor statute of section 552.101 on behalf of governmental bodies).

<sup>2</sup>We note this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license number under section 552.130 of the Government Code, without the necessity of requesting an attorney general opinion.

Ref: ID# 418529

Enc. Submitted documents

c: Requestor  
(w/o enclosures)