



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 22, 2012

Chief Gregory L. Grigg  
Deer Park Police Department  
2911 Center Street  
Deer Park, Texas 77536-4942

OR2012-07749

Dear Chief Grigg:

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# 456447.

The Deer Park Police Department (the "department") received a request for information pertaining to a specified address since January of 2009.<sup>1</sup> You state the department has released some of the requested information, but claim some of the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 1 552.101. Section 552.101 encompasses information protected by other statutes, including section 58.007 of the Family Code. Section 58.007(c) reads 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:

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<sup>1</sup>The department received clarification of the information requested. See Gov't Code §552.222 (if request for information is unclear, governmental body may ask requestor to clarify request).

(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.

Fam. Code § 58.007(c). Upon review, we find the information you have marked under section 58.007 of the Family Code involves conduct by a juvenile that indicates a need for supervision occurring after September 1, 1997. *See id.* §§ 51.02(2) (for purposes of section 58.007, “child” means a person who is ten years of age or older and under seventeen years of age), 51.03(b) (defining “conduct indicating a need for supervision” for purposes of section 58.007). None of the exceptions in section 58.007 appears to apply. Therefore, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.<sup>2</sup>

Section 552.101 of the Government Code also encompasses section 261.201(a) of the Family Code, which provides as follows:

[T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). You assert some of the submitted information was used or developed in an investigation under chapter 261. *See id.* §§ 101.003(a) (defining “child” for purposes of section 261.201), 261.001(1) (defining “abuse” for purposes of section 261.201). Upon review, we find the information you have marked under section 261.201 of the Family Code is within the scope of that section. You state the department has not adopted a rule that permits or allows the release of the information at issue to the requestor. Based on this

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<sup>2</sup>As our ruling is dispositive, we do not address your other argument to withhold this information.

representation, we agree the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.<sup>3</sup> See Open Records Decision No. 440 at 2 (1986) (predecessor statute).

Section 552.101 also encompasses the doctrine of common-law privacy, which 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 types of information considered intimate or 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. This office has found some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *E.g., see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we find you have not established any of the remaining information is 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.

You assert some of the remaining information is excepted from disclosure under section 552.130 of the Government Code. Section 552.130(a) provides the following:

Information is excepted from the requirements of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country;
- (2) a motor vehicle title or registration issued by an agency of this state or another state or country; or
- (3) a personal identification document issued by an agency of this state or another state or country or a local agency authorized to issue an identification document.

Gov't Code § 552.130(a). We agree the department must withhold the motor vehicle record information you have marked under section 552.130.

To conclude, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with sections 58.007 and 261.201 of the Family Code. The department must also withhold the information you have marked

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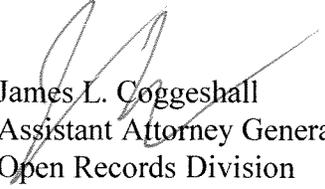
<sup>3</sup>As our ruling is dispositive, we do not address your other arguments to withhold this information.

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/bhf

Ref: ID# 456447

Enc. Submitted documents

c: Requestor  
(w/o enclosures)