



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 25, 2012

Ms. Cara Leahy White  
For City of Euless  
Taylor Olson Adkins Sralla Elam, L.L.P.  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107

OR2012-09781

Dear Ms. White:

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# 457053.

The Euless Police Department (the "department"), which you represent, received a request from two requestors for any reports pertaining to a named individual that were made within a specified period of time. You indicate the department will redacted driver's license numbers as permitted by section 552.130 of the Government Code.<sup>1</sup> You claim that the requested 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. Juvenile law enforcement records relating to conduct

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<sup>1</sup>Section 552.130(c) authorizes a governmental body to redact, without the necessity of requesting a decision from this office, the motor vehicle record information described in subsections 552.130(a)(1) and (a)(3). See Gov't Code § 552.130(c); see also *id.* § 552.130(d)-(e) (requestor may appeal governmental body's decision to withhold information under section 552.130(c) to attorney general, and governmental body withholding information pursuant to section 552.130(c) must provide certain notice to requestor).

that occurred on or after September 1, 1997 are confidential under section 58.007, the relevant language of 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:

...

(2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law.

Fam. Code § 58.007(c), (e), (j)(2). 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)(A). Upon review, we find Incident No. 1200012640 involves the investigation of delinquent conduct by a child that occurred after September 1, 1997. *See*

*id.* § 51.03(a) (defining “delinquent conduct” for purposes of section 58.007). Therefore, Incident No. 1200012640 is within the scope of section 58.007(c). However, the requestors state they are the juvenile’s guardians. Thus, these requestors may inspect or copy any law enforcement records concerning the juvenile at issue. *Id.* § 58.007(e). Nevertheless, section 58.007(j)(2) provides that information subject to any other exception to disclosure under the Act or other law must be redacted. *See id.* § 58.007(j)(2). Therefore, we will address your claim under section 552.101 of the Government Code for this report and the remaining information.

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. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *See id.* at 681–82. 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. Upon review, we find the information we have marked in Incident Nos. 1100073871 and 1100074241 is highly intimate or embarrassing and of no legitimate public interest. Accordingly, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, the remaining information is not highly intimate or embarrassing information of no legitimate public interest, and the department may not withhold it under section 552.101 of the Government Code on that basis.

In summary, the department must withhold the information we have marked in Incident Nos. 1100073871 and 1100074241 under section 552.101 of the Government Code in conjunction with common-law privacy. 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.

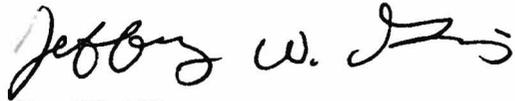
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General’s Open Government Hotline, toll free,

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<sup>2</sup>We note the requestors have a special right of access under section 58.007(e) of the Family Code to the information being released. *See Fam. Code* § 58.007(e). Accordingly, if the department receives another request for this information from a different requestor, then the department should again seek a decision from this office. *See Gov’t Code* §§ 552.301, .302; Open Records Decision No. 673 (2001).

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,

A handwritten signature in black ink, appearing to read "Jeffrey W. Giles". The signature is fluid and cursive, with the first name being the most prominent.

Jeffrey W. Giles  
Assistant Attorney General  
Open Records Division

JWG/dls

Ref: ID# 457053

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)