



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 27, 2012

Mr. Darrell G-M Noga
Counsel for the City of Coppell
Fee, Smith, Sharp & Vitullo, L.L.P.
13155 Noel Road, Suite 1000
Dallas, Texas 75240

OR2012-15428

Dear Mr. Noga:

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# 466304 (ORR No. 10877).

The City of Coppell (the "city") received a request for information pertaining to a specified incident. You state the city will release some of the requested information to the requestor. 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. This section encompasses information protected by other statutes, such as section 58.007 of the Family Code. Section 58.007 makes confidential law enforcement records involving juvenile offenders and relating to conduct that occurred on or after September 1, 1997. Section 58.007(c) 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 Subchapter B.

Fam. Code § 58.007(c). Under section 58.007, juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are confidential. *See id.* § 51.03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision”); *see also id.* 51.02(2)(A) (defining “child” as person who is ten years of age or older and under seventeen years of age). We note, however, the submitted information pertains to an investigation involving an adult suspect. Upon review, we find you have failed to establish how the submitted information constitutes a juvenile law enforcement record subject to section 58.007. Accordingly, the city may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

Section 552.101 also encompasses the doctrine of common-law privacy, which protects information if it (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.¹ *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. *Id.* at 681–82. The types of information considered highly 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. In addition, this office has found common-law privacy applies to the identifying information of juvenile offenders and of juvenile victims of abuse or neglect. *See Open Records Decision No. 394* (1983); *cf.* Fam. Code §§ 58.007, 261.201. Upon review, we find the city must withhold the information we have marked pursuant to section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or a personal

¹The 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).

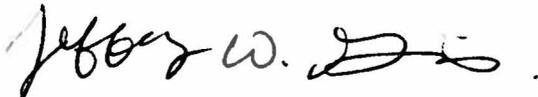
identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130. Upon review, we find the city must withhold the driver's license number we have marked under section 552.130 of the Government Code.

In summary, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy and the driver's license number we have marked under section 552.130 of the Government Code. The remaining information must be released.

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, 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,



Jeffrey W. Giles
Assistant Attorney General
Open Records Division

JWG/tch

Ref: ID# 466304

Enc. Submitted documents

c: Requestor
(w/o enclosures)