



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 31, 2012

Mr. Mark G. Mann
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR2012-17407

Dear Mr. Mann:

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# 469507 (GCA 12-0676).

The Garland Police Department (the "department") received a request for a specified report. You 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.

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 § 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(c) of the Family Code, which provides:

(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.

Fam. Code § 58.007(c). For purposes of section 58.007, “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). Although you claim the submitted information is protected by section 58.007(c), we note this information pertains to an investigation involving an adult arrestee. Upon review, we find you have failed to establish how this information constitutes a juvenile law enforcement record subject to section 58.007. Accordingly, the department may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

Section 552.101 of the Government Code 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. *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. *See Open Records Decision No. 394 (1983); cf. Fam. Code § 58.007.* Upon review, we find portions of the submitted information are highly intimate or embarrassing and not of legitimate public concern to the public. Accordingly, the department must withhold the identifying information of a juvenile offender we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

We note the remaining information contains license plate numbers that are subject to section 552.130(a)(2) of the Government Code.¹ This section provides that information relating to a motor vehicle title or registration issued by a Texas agency, or an agency of another state or country, is excepted from public release. Gov’t Code § 552.130(a)(2). Upon

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).*

review, the department must withhold the license plate numbers we have marked under section 552.130(a)(2) of the Government Code.²

In summary, the department must withhold the identifying information of a juvenile offender we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the license plate numbers we have marked in the remaining information under section 552.130(a)(2) 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, 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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/bhf

Ref: ID# 469507

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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