



ATTORNEY GENERAL OF TEXAS
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August 28, 2014

Mr. John A. Kazen
Counsel for the Laredo Independent School District
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P.O. Box 6237
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OR2014-15195

Dear Mr. Kazen:

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# 536311.

The Laredo Independent School District (the “district”), which you represent, received a request for information pertaining to a specified incident. The district states it has released some of the requested information, but claims the submitted information is excepted from disclosure under sections 552.101 and 552.135 of the Government Code. The district also informs us it has notified three interested third parties of the request for information. *See* Gov’t Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the claimed exceptions and reviewed the submitted information.

Initially, the district acknowledges, and we agree, it failed to comply with the procedural requirements of section 552.301 of the Government Code. A governmental body’s failure to comply with the procedural requirements of section 552.301 results in the legal presumption the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). The presumption that information is public under section 552.302 can generally be overcome by demonstrating the

information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3, 325 at 2 (1982). You assert some of the submitted information is confidential under the common-law informer's privilege. However, the common-law informer's privilege is a discretionary exception to disclosure that protects a governmental body's interests. *See* Open Records Decision No. 549 at 6 (1990) (purpose of the informer's privilege is to protect the flow of information to a governmental body, rather than to protect third party); *see also* Open Records Decision No. 522 (1989) (discretionary exceptions in general). Thus, the district's claim under the common-law informer's privilege is not a compelling reason to overcome the presumption of openness, and the district may not withhold any of the submitted information on that ground. However, the district's remaining arguments under sections 552.101 and 552.135 of the Government Code can provide compelling reasons to overcome this presumption.

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, including section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. 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:

- (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.

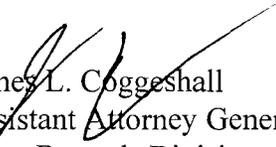
Fam. Code § 58.007(c). The submitted information consists of law enforcement records of the district's police department involving alleged juvenile delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. *See id.* §§ 51.02(2) (for purposes of section 58.007(c), "child" means a person who is ten years of age or older and under seventeen years of age when the conduct occurred), .03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision"). The exceptions in section 58.007 do not appear to apply. Therefore, the district must withhold the submitted

information under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.¹

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

Ref: ID# 536311

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we do not address your other arguments to withhold this information.