



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 19, 2009

Mr. Joseph J. Gorfida, Jr.
Assistant City Attorney
City of Richardson
P.O. Box 831078
Richardson, Texas 75083-1078

OR2009-16500

Dear Mr. Gorfida:

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# 361966 (RPD File No. 09-649).

The Richardson Police Department (the "department") received a request for information involving a specified address and time interval, including records of a specific incident. You inform us that some of the requested information has been released.¹ You claim that other responsive information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the information you submitted. We also have considered the comments that we received from the requestor.²

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 exception encompasses information that other statutes make confidential. Section 58.007 of the Family Code provides in part:

¹We note that a social security number has been redacted from the information that was released. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

²See Gov't Code § 552.304 (any person may submit written comments stating why information at issue in request for attorney general decision should or should not be released).

(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); *see id.* §§ 51.02(2) (defining “child” for purposes of Fam. Code tit.3 as person at least 10 years old and less than seventeen years of age), 51.03(a)-(b) (defining “delinquent conduct” and “conduct indicating need for supervision” for purposes of Fam. Code tit. 3). Section 58.007(c) is applicable to records of juvenile conduct that occurred on or after September 1, 1997. *See* Act of June 2, 1997, 75th Leg., R.S., ch. 1086, §§ 20, 55(a), 1997 Tex. Gen. Laws 4179, 4187, 4199; Open Records Decision No. 644 (1996). Section 58.007(c) is not applicable to information that relates to a juvenile as a complainant, victim, witness, or other involved party and not as a suspect or offender. We find that some of the submitted information consists of juvenile law enforcement records relating to conduct that occurred after September 1, 1997. We therefore conclude that the department must withhold that information, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.³

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and is not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The types of information considered to be intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* include 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 determined that other types of information also are private under section 552.101. *See generally* Open Records Decision No. 659 at 4-5 (1999) (summarizing information attorney general has held to be private). We find that some of the

³As we are able to make this determination, we do not address your other arguments against disclosure of this information.

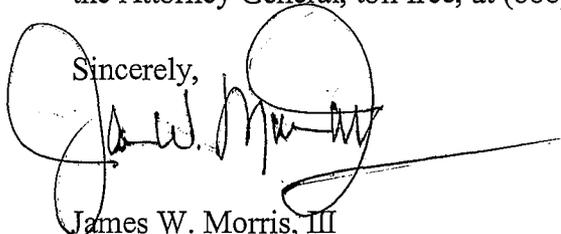
remaining information at issue is intimate or embarrassing and not a matter of legitimate public interest. We therefore conclude that the department must withhold that information, which we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code and common-law privacy. The rest of the submitted 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,

A handwritten signature in black ink, appearing to read "James W. Morris, III", written over a circular stamp or mark.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/cc

Ref: ID# 361966

Enc: Submitted documents

c: Requestor
(w/o enclosures)