



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 5, 2012

Mr. Kerry D. Sullivan
General Counsel
State Office of Administrative Hearings
P.O. Box 13025
Austin, Texas 78711-3025

OR2012-00233

Dear Mr. Sullivan:

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# 440324.

The State Office of Administrative Hearings ("SOAH") received two requests from the same requestor for "each decision, opinion, or order issued by [SOAH]" during specified months for the Title IV-D Agency of the Office of the Attorney General. You state you will produce the information responsive to the first request in accordance with the directives of the district court. We understand you to claim that portions of the information responsive to the second request may be excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹ We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested information).

Initially, we note the submitted information is subject to section 552.022 of the Government Code, which provides in relevant part:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(12) final opinions, including concurring and dissenting opinions, and orders issued in the adjudication of cases[.]

Id. § 552.022(a)(12). The submitted information consists of official orders and final opinions issued by SOAH subject to subsection 552.022(a)(12) of the Government Code. *Id.*; *see also* Gov't Code § 2001.004(3) ("In addition to other requirements under law, a state agency shall . . . make available for public inspection all final orders, decisions, and opinions."). Therefore, SOAH may only withhold the submitted information if it is confidential under the Act or other law. You raise section 552.101 of the Government Code which makes information confidential under the Act for purposes of section 552.022. Therefore, we will consider your arguments under section 552.101 for the submitted information.

Section 552.101 of the Government Code excepts from disclosure information that is made confidential by law, including information made confidential by statute or by judicial decision. *Id.* § 552.101. Chapter 231 of the Family Code pertains to the administration of Title IV-D child support programs and provides the Office of the Attorney General is designated as the state's Title IV-D agency. *See* Fam. Code § 231.001. SOAH informs us that it "conducts all administrative hearings in Title IV-D cases referred to it by the [Attorney General]." Section 231.108(a) of the Family Code provides:

(a) . . . all files and records of services provided under this chapter, including information concerning a custodial parent, noncustodial parent, child, and an alleged or presumed father, are confidential.

Id. § 231.108(a). In interpreting section 231.108(a) and its application, the supreme court concluded section 231.108(a) makes confidential information obtained during the provision of services under chapter 231, including information concerning a custodial and noncustodial parent, "unless the information is already part of the public domain because it appears in public documents." *Jackson v. State Office of Admin. Hearings & Shelia Bailey Taylor*, 351 S.W.3d 290, 295 (Tex. July 1, 2011). In reaching this conclusion, the court stated, "Construing section 231.108(a) to require redaction of information already available in the public domain would be nonsensical." *Id.* n. 3. The information at issue consists of decisions and orders issued by SOAH concerning Title IV-D hearings.

SOAH states it generally seeks to withhold the names and addresses of parents involved in certain child support cases, license types and numbers, financial information regarding the amount of child support payments and arrearages, information identifying court proceedings involving the parents, and any other personal identifiers of the parents or child. We find that, to the extent the types of information you have marked concerning the names and addresses of the parents, license types and numbers, financial information regarding the amount of

child support payments and arrearages, information identifying court proceedings involving the parents, and any other personal identifiers of the parents or child are already contained in public records, this information is part of the public domain and, pursuant to the court's ruling in *Jackson*, may not be withheld by SOAH under section 231.108(a) of the Family Code. To the extent the types of information you have marked concerning the names and addresses of the parents, license types and numbers, financial information regarding the amount of child support payments and arrearages, information identifying court proceedings involving the parents, and any other personal identifiers of the parents or child are not contained within public records and thus are not part of the public domain, this information is confidential under section 231.108(a) and SOAH must withhold it under section 552.101 of the Government Code.

However, we also note the court in *Jackson* stated that other law could expressly make information within the documents at issue confidential. *See Jackson* at 295. Portions of the submitted information are subject to section 552.130 of the Government Code, which provides for the confidentiality of certain motor vehicle records.² Accordingly, to the extent the information subject to section 552.130 is contained in public records and, thus, is not confidential under section 231.108, we will address the applicability of section 552.130.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license or driver's license issued by a Texas agency, or an agency of another state or country, is excepted from public release. Gov't Code § 552.130(a)(1). SOAH must withhold the driver's license numbers we have marked under section 552.130 of the Government Code.

In summary, we determine SOAH must withhold the types of information you have marked concerning the names and addresses of the parents, license types and numbers, financial information regarding the amount of child support payments and arrearages, information identifying court proceedings involving the parents, and any other personal identifiers of the parents or child that are not contained within public records under section 231.108(a) of the Family Code in conjunction with section 552.101 of the Government Code. SOAH must withhold the driver's license numbers we have marked in the submitted information under section 552.130 of the Government Code. The remaining information must be released.³

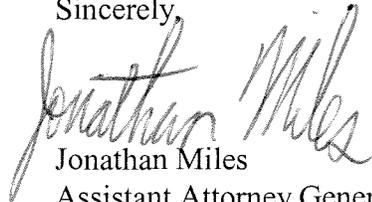
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

²The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).*

³We note the submitted information contains social security numbers. 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. Gov't Code § 552.147(b).

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 cursive script that reads "Jonathan Miles". The signature is written in black ink and is positioned above the printed name and title.

Jonathan Miles
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 440324

Enc. Submitted documents

c: Requestor
(w/o enclosures)