



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

January 24, 2013

Ms. Teresa J. Brown  
Senior Open Records Assistant  
Plano Police Department  
P.O. Box 860358  
Plano, Texas 75086-0358

OR2013-01390

Dear Ms. Brown:

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# 477547 (#BOOM110212).

The Plano Police Department (the "department") received a request for records of police calls involving the requestor's residence, including information related to a specified incident. You state some of the requested information has been released. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the information you submitted.

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 made confidential by other statutes, including section 58.007 of the Family Code, which provides in part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise,

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<sup>1</sup>Although you do not specifically raise section 552.130 of the Government Code, you have marked information the department seeks to withhold under that exception. Accordingly, we will address section 552.130, which is a mandatory exception to disclosure. See Gov't Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

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.* § 51.03(a)-(b) (defining “delinquent conduct” and “conduct indicating need for supervision” for purposes of Fam. Code title 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, 75<sup>th</sup> Leg., R.S., ch. 1086, §§ 20, 55(a), 1997 Tex. Gen. Laws 4179, 4187, 4199; Open Records Decision No. 644 (1996). The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See* Fam. Code § 51.02(2) (defining “child” for purposes of Fam. Code title 3). Section 58.007(c) is not applicable to information related to a juvenile as a complainant, victim, witness, or other involved party and not as a suspect or offender. Although you contend some of the submitted information is confidential under section 58.007(c), we find the information at issue does not involve a juvenile suspect or offender. We therefore conclude the department 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.

You also claim section 552.101 in conjunction with common-law privacy, which protects information that (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. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The types of information considered to be intimate or 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. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances where it is demonstrated the requestor knows the identity of the individual involved as well as the nature of certain incidents, the entire report must be withheld to protect the individual’s privacy.

In this instance, the requestor knows the nature of the incident to which report number 2010-00049717 pertains and the identity of the individual involved. Therefore, withholding only the individual’s identity or certain details of the incident would not preserve the individual’s common-law right to privacy. Instead, to protect the privacy of the

individual involved, we conclude report number 2010-00049717 is confidential in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy.

You also contend some of the information in report number 2012-00036872 is protected by common-law privacy under section 552.101. We conclude the information we have marked is highly intimate or embarrassing and not a matter of legitimate public interest and is therefore confidential under section 552.101 in conjunction with common-law privacy. Although you also appear to contend other information in report number 2012-00036872 is private, we conclude the remaining information at issue is not highly intimate or embarrassing and a matter of no legitimate public interest. Therefore, the remaining information in report number 2012-00036872 may not be withheld under section 552.101 in conjunction with common-law privacy.

We next note the requestor may be an authorized representative of the individuals whose privacy interests are implicated by the information in report number 2010-00049717 and the marked information in report number 2012-00036872. As such, the requestor would have a special right of access under section 552.023 of the Government Code to information the department would be required to withhold from the public to protect the individuals' privacy. *See Gov't Code § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself).*<sup>2</sup> As we are unable to determine whether the requestor is the individuals' authorized representative, we must rule conditionally. Thus, to the extent the requestor is the authorized representative of the individuals whose privacy interests are implicated, the requestor has a right of access to the information in report number 2010-00049717 and the marked information in report number 2012-00036872 under section 552.023. To the extent the requestor has a right of access under section 552.023, the information in question may not be withheld on privacy grounds under section 552.101 of the Government Code and must be released. To the extent the requestor is not the authorized representative of the individuals whose privacy interests are implicated, the department must withhold all the information in report number 2010-00049717 and the marked information in report number 2012-00036872 under section 552.101 in conjunction with common-law privacy.

Lastly, section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle title or registration issued by an agency of this state or another state or country. *See Gov't Code § 552.130(a)(2).* We note this exception protects personal privacy. Thus, the department must withhold the motor vehicle information we have marked in report number 2012-00036872 under section 552.130 of the Government Code, unless the requestor is the owner of the vehicle to which the information pertains. If the requestor is the owner of the vehicle, then he has a right of access to the marked information under section 552.023 of the Government Code, and the information may not be withheld under section 552.130.

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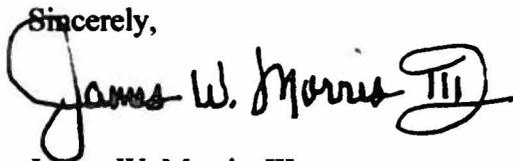
<sup>2</sup>Section 552.023 provides in part that "[a] person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests." Gov't Code § 552.023(a).

In summary, the department must withhold (1) all the information in report number 2010-00049717 and the marked information in report number 2012-00036872 under section 552.101 of the Government Code in conjunction with common-law privacy, except to the extent the requestor has a right of access to the information as the authorized representative of the individuals involved under section 552.023 of the Government Code, and (2) the marked license plate number in report number 2012-00036872, unless the requestor has a right of access to the information under section 552.023 as the owner of the vehicle. The remaining information in report number 2012-00036872 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](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 that reads "James W. Morris III". The signature is written in a cursive style with a large, stylized initial "J".

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

JWM/bhf

Ref: ID# 477547

Enc: Submitted documents

c: Requestor  
(w/o enclosures)