



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 23, 2009

Ms. Jenny Gravley
City Attorney for the City of Southlake
Taylor, Olson, Adkins, Sralla & Elam
6000 Western Place, Suite 200
Fort Worth, Texas 76107-4654

OR2009-13421

Dear Ms. Gravley:

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# 356488.

The City of Southlake (the "city"), which you represent, received a request for all reports pertaining to a missing or found child during a specified period of time. You state you will release some of the responsive information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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. Section 552.101 encompasses information made confidential by other statutes, such as section 58.007 of the Family Code. The relevant language of section 58.007 reads:

(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). The information you have marked pertains to juvenile runaways. Thus, we find the information you have marked involves juveniles engaged in conduct indicating a need for supervision. *See id.* § 51.03(b) (defining "conduct indicating a need for supervision" to include "the voluntary absence of a child from the child's home without the consent of the child's parent or guardian for a substantial length of time or without intent to return"). It does not appear any of the exceptions in section 58.007 of the Family Code apply. Therefore, we find the information you have marked is confidential pursuant to section 58.007(c) of the Family Code and must be withheld under section 552.101 of the Government Code.

Section 552.101 also encompasses the doctrine of 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. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The types of information considered intimate and 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 some kinds of medical information or information indicating disabilities or specific illnesses is protected by common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we conclude the information we have marked in the remaining information is intimate or embarrassing and of no legitimate public interest. Thus, this information must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. However, you have failed to demonstrate how the remaining information you have marked is highly intimate or embarrassing. Therefore, no portion of the remaining information is confidential under common-law privacy, and it may not be withheld under section 552.101 of the Government Code on that basis.

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). Section 552.130 does not apply to out of state motor vehicle record information. In this instance, we are unable to determine if the motor vehicle record information you have marked in the remaining information was issued by the State of Texas. To the extent the motor vehicle record information was issued by the State of Texas, the city must withhold it under section 552.130 of the Government Code. If it was not issued by the State of Texas, it must be released.

In summary, the city must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. The information we have marked must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. If the motor vehicle record information you have marked was issued by the State of Texas, the city must withhold it under section 552.130 of the Government Code; however, if it was not issued by the State of Texas it must be released. The remaining 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,



Karen E. Stack
Assistant Attorney General
Open Records Division

KES/jb

Ref: ID# 356488

Enc. Submitted documents

c: Requestor
(w/o enclosures)