



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 13, 2009

Mr. Joe Torres, III
Attorney for the City of Alice
216 North Texas Boulevard, Suite 2
Alice, Texas 78332

OR2009-16168

Dear Mr. Torres:

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# 361344.

The City of Alice (the "city") received a request for a record of the requestor's completed community service. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Section 552.101 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 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. The relevant language of section 58.007 reads as follows:

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

¹Although you raise section 552.108 as an exception to disclosure, you have provided no arguments regarding the applicability of this section. Since you have not submitted arguments concerning this exception, we assume you no longer raise it. See Gov't Code §§ 552.301(b), (e), .302. We also note that you raise exceptions, 552.108(5)(a) and 552.108(5)(b), that do not exist.

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.

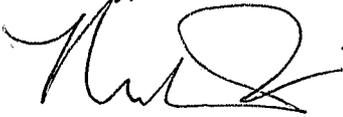
Fam. Code § 58.007(c). For purposes of section 58.007, a "child" is defined as a person ten years of age or older and under seventeen years of age. *Id.* § 51.02(2)(A). Section 58.007(c) is not applicable to information that relates to a juvenile as a complainant, victim, witness, or other involved party and not as a suspect or offender. The submitted document is a sign-in sheet for community service at a recycling center. Although the submitted document contains references to juvenile offenders, you acknowledge that the submitted document is a copy of a city record that keeps track of the number of hours of community service performed. You have failed to demonstrate that the submitted document is a law enforcement record for the purposes of section 58.007(c). Accordingly, we find that the submitted information is not a juvenile law enforcement record and no portion of it may be withheld under section 552.101 in conjunction with section 58.007(c) of the Family Code.

Section 552.101 also encompasses the common-law right of privacy, which protects information if (1) it 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 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be demonstrated. *Id.* at 681-82. 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. This office has also found that common-law privacy generally protects the identifying information of juvenile offenders. *See* Open Records Decision No. 394 (1983); *cf.* Fam. Code § 58.007. Upon review, we find that the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining information must be released to the requestor.

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,



Nneka Kanu
Assistant Attorney General
Open Records Division

NK/jb

Ref: ID# 361344

Enc. Submitted documents

cc: Requestor
(w/o enclosures)