



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 23, 2013

Mr. Grant Jordan
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, Third Floor
Fort Worth, Texas 76102

OR2013-18408

Dear Mr. Jordan:

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# 507995 (P.I.R. No. W028957).

The City of Fort Worth (the "city") received a request for two specified incident reports. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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 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, 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)(defining “delinquent conduct” for purposes of title 3 of Family Code). Section 58.007(c) is applicable to records of juvenile conduct that occurred on or after September 1, 1997. The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See id.* § 51.02(2) (defining “child” for purposes of title 3 of Family Code). We find report number 11-89235 involves juvenile offenders, so as to fall within the scope of section 58.007(c). It does not appear that any of the exceptions in section 58.007 apply; therefore, the city must withhold report number 11-89235 under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.¹

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find the city must withhold the information you have marked, as well as the additional information we have marked, in report number 07-151205 under section 552.101 of the Government Code in conjunction with common-law privacy.

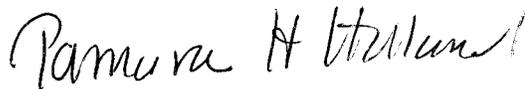
In summary, the city must withhold report number 11-89235 under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. The city must withhold the information marked in report number 07-151205 under section 552.101 of the Government Code in conjunction with common-law privacy. The city must release the remaining information in report number 07-151205.

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script that reads "Tamara H. Holland".

Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/dls

Ref: ID# 507995

Enc. Submitted documents

c: Requestor
(w/o enclosures)