



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 7, 2007

Mr. Stephen R. Alcorn
Assistant City Attorney
City of Grand Prairie
317 College Street
Grand Prairie, Texas 75053

OR2007-01616

Dear Mr. Alcorn:

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# 271199.

The City of Grand Prairie (the "city") received a request for all citations and arrest reports written by a named police officer during March, April, and May 2006. We understand you to assert that the requested information is excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by section 58.007 of the Family Code. Law enforcement records involving juvenile offenders and relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. Section 58.007(c) 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, 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 Subchapter B.

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. *See id.* § 51.02(2). After reviewing the submitted records, we find that it includes information about juvenile conduct that occurred after September 1, 1997. It does not appear that any of the exceptions in section 58.007 apply; therefore, this information, which we have marked, is confidential pursuant to section 58.007(c) of the Family Code. Accordingly, the city must withhold the information we have marked under section 552.101 on this basis.

We understand you to claim that portions of the submitted information must be withheld under the doctrine of common law privacy. Section 552.101 also encompasses the doctrine of common law privacy, which protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type 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 some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under 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 find that a portion of the submitted information is protected under common law privacy. However, we find that none of the remaining information constitutes highly intimate or embarrassing information. *See* Open Records Decision No. 554 at 3 (1990) (disclosure of a person’s home address and telephone number is not an invasion of privacy). Accordingly, the city must withhold only the information we have marked under section 552.101 in conjunction with common law privacy.

Next, section 552.130 of the Government Code excepts from public disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document. *See* Gov't Code § 552.130(a)(1), (3). We note that this provision does not protect out-of-state motor vehicle record information. We have marked the information that must be withheld under section 552.130.

Finally, section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. *Id.* § 552.147. Therefore, the city must withhold the social security numbers we have marked under section 552.147.¹

In summary, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common law privacy. The city must also withhold the information we have marked under section 552.130 of the Government Code and section 552.147 of the Government Code. The remaining submitted information must be released to the requestor.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the

¹We note that 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 under the Act.

requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Shelli Egger
Assistant Attorney General
Open Records Division

SE/sdk

Ref: ID# 271199

Enc. Submitted documents

c: Mr. T.K. Grey
1357 Middleton Drive
Cedar Hill, Texas 75104
(w/o enclosures)