



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 24, 2011

Captain Greg Minton  
Assistant Chief  
Leander Police Department  
705 Leander Drive  
Leander, Texas 78641

OR2011-07326

Dear Captain Minton:

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# 419639.

The Leander Police Department (the "department") received a request for "Public information excluding names of juveniles not charged with felonies CPHS reports on suspected abuse of children and names of sexual assault victims found in the basic information . . . for all Incident Reports generated from calls for service" during a specified period of time. You state the department has released some information to the requestor. You also state you have redacted social security numbers under section 552.147 of the Government Code.<sup>1</sup> You explain you have redacted Texas driver's license and license plate numbers under section 552.130 of the Government Code and credit card numbers under section 552.136 of the Government Code pursuant to Open Records Decision No. 684 (2009).<sup>2</sup> Additionally, you state you advised the requestor of certain redactions made pursuant to section 552.1175(h) of the Government Code. We note, however, section 552.1175(h) pertains only to notifying a requestor of redacting information pursuant to sections 552.1175(b) and 552.1175(f) of the Government Code, not to redacting

---

<sup>1</sup>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. Gov't Code § 552.147(b).

<sup>2</sup>Open Records Decision No. 684 is a previous determination that authorizes all governmental bodies to withhold ten categories of information, including Texas driver's license and license plate numbers under section 552.130 of the Government Code and credit card numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

information under other exceptions in the Act. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that some of the submitted information is not responsive to the request. The requestor seeks only “[t]he basic information” for the incident reports at issue.<sup>3</sup> Thus, any information outside the scope of basic information is not responsive to the request. This ruling does not address the public availability of that information, and the department need not release any non-responsive 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. This section encompasses information protected by other statutes, such as section 58.007 of the Family Code, which provides in pertinent part 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 Subchapters B, D, and E.

Fam. Code § 58.007(c). Juvenile law enforcement records relating to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997 are confidential under section 58.007. *See id.* § 51.03(b) (defining “delinquent conduct” and 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”). For purposes of section 58.007(c), “child” means a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). We agree that case numbers 110340, 110342, and 110356 each involve

---

<sup>3</sup>Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), writ ref’d n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976).

a child engaged in delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. As such, these reports constitute juvenile law enforcement records that are confidential pursuant to section 58.007(c). It does not appear that any of the exceptions to confidentiality under section 58.007 apply to any of the reports at issue. Accordingly, the department must withhold the responsive information for these three reports under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.<sup>4</sup>

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information if it (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). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681-82.

The types of information considered highly intimate or 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 concluded information that either identifies or tends to identify a victim of sexual assault or other sex-related offense must be withheld under common-law privacy. Open Records Decision 393 at 2 (1983); *see also Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied) (identity of witnesses to and victims of sexual harassment was highly intimate or embarrassing information and public did not have a legitimate interest in such information). This office has also found that the following types of information are excepted from required public disclosure under common-law privacy: some kinds of medical information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps); and identities of victims of sexual abuse, *see* Open Records Decision Nos. 440 (1986), 393, 339 (1982).

Upon review, we find no portion of the remaining information is highly intimate or embarrassing and of no legitimate public concern. Accordingly, the department may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy.

You assert the remaining information is excepted under section 552.108 of the Government Code, which excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution

---

<sup>4</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

of crime.” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

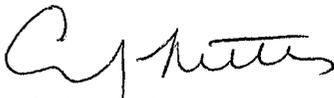
You assert the remaining information contains investigative and police methods in numerous pending investigations. However, as previously noted, the requestor seeks access to only “the public information portions” of the reports. We note that section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. 531 S.W.2d 177. Basic information includes, but is not limited to, an identification of the complainant; the vehicles, property and premises involved; the location of the crime; a detailed description of the offense; and the names of the arresting and investigating officers. Open Records Decision No. 127 at 4–5 (1976). Consequently, the department may not withhold any of the remaining information under section 552.108(a)(1) of the Government Code.

In summary, the department must withhold the responsive information for case numbers 110340, 110342, and 110356 under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. The remaining responsive 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](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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 419639

Enc. Submitted documents

c: Requestor  
(w/o enclosures)