



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 10, 2013

Ms. Judi S. Rawls  
Police Legal Counsel  
City of Beaumont  
P.O. Box 3827  
Beaumont, Texas 77704-3827

OR2013-00612

Dear Ms. Rawls:

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# 476817 (ORR No. 10-46).

The City of Beaumont (the "city") received a request for all incident reports involving dog bites from a specified time period. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.132 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the submitted information is not responsive because it either is not from the specified time period in the instant request or does not involve a dog bite. The city need not release non-responsive information in response to this request, and this ruling will not address that 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 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:

(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(c), “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). Section 58.007(c) does not apply to law enforcement records that relate to a juvenile only as a complainant, victim, witness, or other involved party; rather, the juvenile must be involved as a suspect, offender, or a defendant. *See id.* § 58.007(c). Upon review, we find the responsive information does not involve either juvenile delinquent conduct or conduct indicating a need for supervision for purposes of section 58.007 of the Family Code. Therefore, we conclude that section 58.007(c) is not applicable to any of the responsive information. Accordingly, the city may not withhold any of the responsive information under section 552.101 of the Government Code in conjunction with section 58.007.

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy. Common-law privacy protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *See 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 satisfied. *See 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. *See id.* at 683. Upon review, we find you have failed to demonstrate how any portion of the responsive information is highly intimate or embarrassing and of no legitimate public interest. Accordingly, none of the responsive information may be withheld under section 552.101 in conjunction with common-law privacy.

Section 552.132 of the Government Code provides in relevant part:

(d) An employee of a governmental body who is also a victim under Subchapter B, Chapter 56, Code of Criminal Procedure, regardless of whether the employee has filed an application for compensation under that subchapter, may elect whether to allow public access to information held by the attorney general's office or other governmental body that would identify or tend to identify the victim, including a photograph or other visual representation of the victim. An election under this subsection must be made in writing on a form developed by the governmental body, be signed by the employee, and be filed with the governmental body before the third anniversary of the latest to occur of one of the following:

- (1) the date the crime was committed;
- (2) the date employment begins; or
- (3) the date the governmental body develops the form and provides it to employees.

Gov't Code § 552.132(d). Section 552.132(d) permits an employee of a governmental body who is also a victim, as defined by subchapter B of chapter 56 of the Code of Criminal Procedure, to elect whether to allow public access to information held by a governmental body that would identify or tend to identify the victim. *Id.* You state some of the responsive information identifies complainants who are employees of the city and are victims as defined by subchapter B of chapter 56 of the Code of Criminal Procedure. *See* Crim. Proc. Code art. 56.32(a)(11) (defining "victim"). Section 56.32(a)(11) of the Code of Criminal Procedure defines, in part, a victim as an individual who "suffers personal injury or death as a result of criminally injurious conduct[.]" *Id.* In this instance, we find that you have not established that the conduct at issue in the responsive information falls within the definition of criminally injurious conduct. *See id.* art. 56.32(a)(4). Accordingly, none of the responsive information may be withheld under section 552.132(d) of the Government Code. As you raise no further exceptions to disclosure, the city must release the responsive 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.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,

A handwritten signature in black ink, appearing to read "Sean Nottingham".

Sean Nottingham  
Assistant Attorney General  
Open Records Division

SN/som

Ref: ID# 476817

Enc. Submitted documents

c: Requestor  
(w/o enclosures)