



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 25, 2013

Ms. Andrea D. Russell  
Counsel for the City of Crowley  
Taylor Olson Adkins Sralla Elam, L.L.P.  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107

OR2013-10777

Dear Ms. Russell:

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# 491437.

The City of Crowley (the "city"), which you represent, received a request for the requestor's personal file. You state the city will release some information to the requestor. You also state the city will withhold social security numbers under section 552.147 of the Government Code and information pursuant to Open Records Decision 684 (2009).<sup>1</sup> You claim the submitted 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 information that other statutes make confidential, such as section 58.007 of the Family Code. Section 58.007 provides, in pertinent part, as follows:

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<sup>1</sup>We note 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. See Gov't Code § 552.147(b). Open Records Decision No. 684 serves as a previous determination to all governmental bodies authorizing them to withhold specific categories of information without the necessity of requesting an attorney general decision.

(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. *See id.* § 51.02(2). Upon review, we conclude the information we have marked consists of law enforcement records involving juvenile conduct indicating a need for supervision occurring after September 1, 1997 and is, therefore, subject to section 58.007(c). *See id.* § 51.03(b) (defining "conduct indicating a need for supervision" for purposes of section 58.007). None of the exceptions in section 58.007 apply. Therefore, the information we have marked is confidential under section 58.007(c) of the Family Code and must be withheld in its entirety under section 552.101 of the Government Code. We note, however, the remaining information consists of an internal affairs investigation of a police officer. Records of an internal investigation do not constitute juvenile law enforcement records for the purpose of section 58.007(c) of the Family Code. Accordingly, the city may not withhold the remaining information under section 552.101 in conjunction with section 58.007(c) of the Family Code.

Section 552.101 of the Government Code also encompasses common law privacy. The doctrine of common-law privacy protects information (1) containing 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 satisfied. *Id.* at 681-82. The type of information considered 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 also found common-law privacy generally protects the identifying information of juvenile offenders. *See Open Records Decision No. 394 (1983); cf. Fam. Code § 58.007(c).* Upon review, we find portions of the remaining information are highly intimate or embarrassing and not of

legitimate public concern. Therefore, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the city must withhold the information we have marked under section 552.101 in conjunction with section 58.007 of the Family Code and in conjunction with common-law privacy. The remaining information must be released.

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](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,



David L. Wheelus  
Assistant Attorney General  
Open Records Division

DLW/dls

Ref: ID# 491437

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

