



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 6, 2013

Ms. Donna L. Clarke
Assistant Criminal District Attorney
Civil Division
Lubbock County District Attorney's Office
P.O. Box 10536
Lubbock, Texas 79408-3536

OR2013-15575

Dear Ms. Clarke:

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# 498605.

The Lubbock County Sheriff's Office (the "sheriff's office") received a request for the reports related to a specified address from a specified time period. You inform us the sheriff's office has released some of the requested information. 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 protected by other statutes, such as section 58.007(c) of the Family Code, which provides as follows:

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). Section 58.007(c) is applicable to records of juvenile conduct indicating a need for supervision that occurred on or after September 1, 1997. *See id.* § 51.03(b)(3) (defining “conduct indicating a need for supervision” for purposes of section 58.007). 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). You claim offense report number 12-126-0025 and the information pertaining to call sheet numbers 2012080863 and 2012091242 are confidential under section 58.007(c). Upon review, we agree this information involves juvenile conduct indicating a need for supervision that occurred after September 1, 1997. You do not indicate, nor does it appear, that any of the exceptions in section 58.007 apply to the information at issue. Accordingly, we find offense report number 12-126-0025 and the information pertaining to call sheet numbers 2012080863 and 2012091242 are confidential pursuant to section 58.007(c) of the Family Code and the sheriff’s office must withhold this information under section 552.101 of the Government Code on that basis.

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. The types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *See 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). Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the information must be withheld in its entirety to protect the individual’s privacy.

In this instance, although you seek to withhold the remaining information in its entirety on the basis of common-law privacy, you have not demonstrated, nor does it otherwise appear, this is a situation in which the entirety of the information at issue must be withheld on this basis. However, upon review, we find the information you have highlighted and the information we have marked satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the sheriff’s office must withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have failed to demonstrate how any of the remaining information is

highly intimate or embarrassing and not of legitimate concern to the public. Accordingly, none of the remaining information may be withheld under section 552.101 in conjunction with common-law privacy.

In summary, offense report number 12-126-0025 and the information pertaining to call sheet numbers 2012080863 and 2012091242 must be withheld under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. The sheriff's office must withhold the information you have highlighted and the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office must release the remaining 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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/bhf

Ref: ID# 498605

Enc. Submitted documents

c: Requestor
(w/o enclosures)