



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 11, 2013

Mr. Steven Haas
Records Coordinator
Burleson Police Department
225 West Renfro
Burleson, Texas 76028

OR2013-21522

Dear Mr. Haas:

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# 508119.

The Burleson Police Department (the "department") received a request for all police car videos pertaining to a named individual for a specified citation number. You claim that 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 "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 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. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office has also held common-law privacy protects the identifying information of juvenile victims of abuse or neglect. *See* Open Records Decision No. 394 (1983); *cf.* Fam. Code § 261.201. Further, this office has determined common-law privacy generally protects the identities of juvenile offenders. *See* ORD 394; *cf.* Fam. Code § 58.007(c). Upon review, we find some

of the information in one of the submitted video recordings satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. You inform us the department does not possess the technological capability to redact information from video files. Thus, we find the department must withhold the entire video recording at issue, which we have noted, under section 552.101 of the Government Code in conjunction with common-law privacy.¹ See Open Records Decision No. 364 (1983).

Section 552.101 of the Government Code also encompasses information protected by other statutes, such as section 58.007 of the Family Code which provides in relevant part:

(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(c). See *id.* § 51.03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision”). For purposes of section 58.007(c), a “child” is 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). Upon review, however, we find you have failed to demonstrate the remaining information consists of juvenile law enforcement records which involve a child engaged in delinquent conduct or conduct indicating a need for supervision for purposes of section 58.007. Therefore, none of the remaining information may be withheld under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

¹As our ruling on this information is dispositive, we need not address your argument against its disclosure.

In summary, the department must withhold the video recording we have noted under section 552.101 of the Government Code 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, 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,

A handwritten signature in black ink, appearing to read 'Sarah Casterline', with a stylized flourish at the end.

Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/tch

Ref: ID# 508119

Enc. Submitted documents

c: Requestor
(w/o enclosures)