



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 10, 2014

Mr. Guillermo Trevino
Assistant City Attorney
City of Fort Worth
1000 Thockmorton Street, Third Floor
Fort Worth, Texas 76102

OR2014-11861

Dear Mr. Trevino:

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# 528651 (Fort Worth ID# W033505).

The City of Fort Worth (the "city") received a request for a specified types of report made by the requestor about his stepson for a specified period of time. You claim the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the submitted information, which we have indicated, is not responsive to the instant request because it is not the specified type of report made by the requestor about his stepson. This ruling does not address the public availability of any information that is not responsive to the request and the city is not required to release such information in response to this request.¹

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. Juvenile law enforcement records relating to delinquent

¹As our ruling is dispositive, we need not address your arguments against disclosure of this information.

conduct that occurred on or after September 1, 1997, are confidential under section 58.007. Fam. Code § 58.007(c). The relevant language of section 58.007 reads 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.

...

(e) Law enforcement records and files concerning a child may be inspected or copied by a juvenile justice agency as that term is defined by Section 58.101, a criminal justice agency as that term is defined by Section 411.082, Government Code, the child, and the child's parent or guardian.

...

(j) Before a child or a child's parent or guardian may inspect or copy a record or file concerning the child under Subsection (e), the custodian of the record or file shall redact:

...

(2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law.

Id. § 58.007(c), (e), (j)(2). 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). The submitted responsive information involves juvenile conduct indicating a need for supervision that occurred after September 1, 1997. *See id.* § 51.03 (defining "conduct indicating a need for supervision" for purposes of Fam. Code

§ 58.007). Thus, this information is subject to section 58.007(c). In this instance, the requestor is a step-parent of the juvenile suspect listed in the submitted responsive information and may have a right of access to information otherwise made confidential by section 58.007(c). *See id.* § 58.007(e) (law enforcement records may be inspected or copied by child's parent or guardian). As we are unable to determine whether the requestor is a parent or guardian of the juvenile suspect, we must rule conditionally. If the city determines the requestor is not a parent or guardian of the juvenile suspect at issue, the city must withhold the submitted responsive information in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. If the city determines the requestor is a parent or guardian of the juvenile suspect at issue, the city may not withhold the submitted responsive information from the requestor on the basis of section 58.007(c). However, section 58.007(j)(2) provides information subject to any other exception to disclosure under the Act or other law must be redacted. *See id.* § 58.007(j)(2). Accordingly, we will address your remaining arguments under sections 552.101 and 552.147 of the Government Code against disclosure of this information.

Section 552.101 also encompasses the doctrine of common-law privacy, which 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. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *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). Upon review, we find portions of the submitted responsive information meets the standard articulated by the Texas supreme court in *Industrial Foundation*. However, as previously noted, the requestor may be a parent or guardian of the juvenile whose information is at issue and may have a right of access to the juvenile's information pursuant to section 552.023 of the Government Code. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on grounds that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Therefore, to the extent the requestor is a parent or guardian of the juvenile at issue, he has a right of access to information pertaining to the juvenile pursuant to section 552.023 of the Government Code, and it may not be withheld from him pursuant to common-law privacy. Further, the city has failed to demonstrate any of the remaining responsive information at issue is highly intimate or embarrassing and a matter of no legitimate public interest. Therefore, no portion of the remaining responsive information at issue may be withheld under section 552.101 in conjunction with common-law privacy.

Section 552.147 of the Government Code provides "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Gov't Code § 552.147(a).

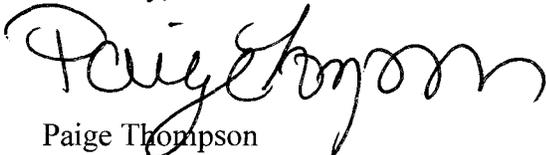
You seek to withhold the social security number of the juvenile suspect. However, because section 552.147 protects personal privacy, the requestor may have a right of access to his stepson's social security number under section 552.023 of the Government Code. *See id.* § 552.023(a). Thus, if the requestor is a parent or guardian of the juvenile suspect at issue, the city may not withhold the social security number you have marked under section 552.147 of the Government Code.

In summary, if the city determines the requestor is not a parent or guardian of the juvenile suspect at issue, the city must withhold the submitted responsive information in its entirety under section 552.101 in conjunction with section 58.007(c) of the Family Code. If the city determines the requestor is a parent or guardian of the juvenile suspect at issue, the city must release the submitted responsive information to him.

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,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

Ref: ID# 528651

Enc. Submitted documents

c: Requestor
(w/o enclosures)