



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 23, 2014

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

OR2014-16873

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# 537023 (PIR No. W035381).

The City of Fort Worth (the "city") received a request for information pertaining to a named individual. You state the city has released some responsive information to the requestor. You claim the remaining requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code.<sup>1</sup> We have considered the exceptions 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. A compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. U.S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (finding significant privacy interest in

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<sup>1</sup>Although you do not raise section 552.130 of the Government Code in your brief, we understand you to raise this exception based on your markings.

compilation of individual's criminal history by recognizing distinction between public records found in courthouse files and local police stations and compiled summary of criminal history information). Furthermore, we find that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

The present request requires the city to compile the named individual's criminal history and implicates the named individual's right to privacy. However, in this instance, the requestor is a recruiter for the United States Marine Corps (the "Marine Corps"), the named individual is a potential enlistee in the Marine Corps, and the named individual provided the Marine Corps with a signed authorization for the release of the information at issue. Therefore, the requestor is acting as the authorized representative of the named individual and has a right of access pertaining to the named individual pursuant to section 552.023 of the Government Code. *See Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself).* Accordingly, the city may not withhold any portion of the submitted information as a criminal history compilation under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.101 of the Government Code also encompasses information made confidential by section 58.007 of the Family Code, which provides, in pertinent part, 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:

(1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child; and

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

Fam. Code § 58.007(c), (e), (j). Thus, under section 58.007, law enforcement records relating to a juvenile engaged in delinquent conduct or conduct indicating a need for supervision on or after September 1, 1997, are confidential. *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 when the conduct occurred. *See id.* § 51.02(2).

Upon review, we find the submitted information consists of law enforcement records that involve juvenile conduct that occurred after September 1, 1997. Accordingly, this information is confidential under section 58.007(c) of the Family Code.

As previously noted, however, the requestor is acting as the authorized representative of the juvenile suspect. Under section 58.007(e), the juvenile may inspect law enforcement records concerning himself. *Id.* § 58.007(e). Accordingly, the requestor has a right to inspect juvenile law enforcement records concerning this individual. However, personally identifiable information concerning any other juvenile suspect, offender, victim, or witness who is not the juvenile suspect at issue must be redacted pursuant to section 58.007(j)(1). *See id.* § 58.007(j)(1). Thus, the city must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. Section 58.007(j) also provides that information subject to any other exception to disclosure under the Act or other law must be redacted. *See id.* § 58.007(j)(2). Thus, pursuant to section 58.007(j)(2), we will consider your claim under section 552.130 of the Government Code.

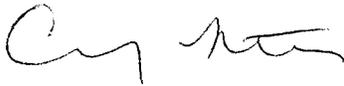
Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a). Upon review, we find the city must withhold the motor vehicle record information you have marked under section 552.130 of the Government Code.

In summary, the city must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. The city also must withhold the motor vehicle record information you have marked under section 552.130 of the Government Code. The remaining information must be released to this requestor.<sup>2</sup>

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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 537023

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We note the requestor has a special right of access to the information being released in this instance. See Fam. Code § 58.007(e). Because such information is confidential with respect to the general public, if the city receives another request for this information from a different requestor, the city must again seek a ruling from this office.