



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 28, 2014

Ms. Michelle T. Rangel  
Assistant County Attorney  
Fort Bend County  
401 Jackson Street, 3<sup>rd</sup> Floor  
Richmond, Texas 77469

OR2014-19451

Dear Ms. Rangel:

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# 540869.

The Fort Bend County Fire Marshal (the "fire marshal's office") received a request for information pertaining to case number FM13070004. 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 of the Family Code. Section 58.007 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.

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. *See id.* § 51.03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision”). 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 conduct at issue. *See id.* § 51.02(2). The submitted information involves allegations of delinquent conduct that occurred after September 1, 1997. However, we are unable to determine the ages of the alleged offenders. Accordingly, we must rule conditionally. It does not appear that any of the exceptions to confidentiality under section 58.007 apply in this instance. Thus, to the extent any of the offenders were ten years of age or older and under seventeen years of age at the time of the conduct at issue, the submitted information is confidential under section 58.007(c) and must be withheld in its entirety under section 552.101. However, to the extent none of the offenders were ten years of age or older and under seventeen years of age at the time of the conduct at issue, the submitted information is not confidential pursuant to section 58.007(c) and it may not be withheld under section 552.101 on that basis. In that instance, we will address the public availability of the submitted information.

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. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office has found that personal financial information not relating to a financial transaction between an individual and a governmental body is generally intimate or embarrassing. *See generally* Open Records Decision Nos. 545 (1990) (deferred compensation information, participation in voluntary investment program, election of optional insurance coverage, mortgage payments, assets, bills, and credit history), 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information), 373 (1983) (sources of income not related to financial transaction between individual and governmental body protected under common-law privacy). Whether the public’s interest in obtaining personal financial information is sufficient to justify its disclosure must be determined on a case-by-case basis. *See* ORD 373. Upon review, we find

the remaining information contains information that satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, to the extent the submitted information is not confidential under section 58.007 of the Family Code, the fire marshal's office must withhold the information we have marked under section 552.101 in conjunction with common-law privacy.

We note a portion of the remaining information is subject to section 552.130 of the Government Code.<sup>1</sup> Section 552.130 provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a). To the extent the submitted information is not confidential under section 58.007 of the Family Code, we conclude the fire marshal's office must withhold the information we have marked under section 552.130.

In summary, to the extent any of the offenders in the submitted information were ten years of age or older and under seventeen years of age at the time of the conduct at issue, the fire marshal's office must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. To the extent none of the offenders in the submitted information were ten years of age or older and under seventeen years of age at the time of the conduct at issue, the fire marshal's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy and under section 552.130 of the Government Code. The fire marshal's office must release the remaining information.<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.

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>2</sup>We note the requestor has a right of access beyond that of the general public to some of the information being released. See Gov't Code § 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual asks governmental body to provide him with information concerning himself). Accordingly, if the fire marshal's office receives another request for this information from an individual other than this requestor, the fire marshal's office must again seek a ruling from this office. We also note the remaining information contains the social security number of an individual other than the requestor. 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 under the Act. Gov't Code § 552.147(b). The requestor, however, has a right of access to his own social security number. See generally *id.* § 552.023(b).

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,

A handwritten signature in black ink that reads "Lindsay E. Hale". The signature is written in a cursive style with a large initial "L".

Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/akg

Ref: ID# 540869

Enc. Submitted documents

c: Requestor  
(w/o enclosures)