



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 18, 2014

Mr. Jason Cozza
City Secretary
City of Hallettsville
101 North Main
Hallettsville, Texas 77964-2727

OR2014-23042

Dear Mr. Cozza:

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# 547383.

The City of Hallettsville (the "city") received a request for calls for service to a specified address during a specified time period, and information pertaining to a named individual during a specified time period.¹ You state you have released some information to the requestor. We understand you have redacted motor vehicle record information under section 552.130(c) of the Government Code and social security numbers under section 552.147(b) of the Government Code.² You claim portions of the submitted information are excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

¹You note the city sought and received clarification of the request. *See* Gov't Code § 552.222(b) (providing that if request for information is unclear, governmental body may ask requestor to clarify the request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

²Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). 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. *See id.* § 552.147(b).

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.”³ 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). This office has concluded 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) (when considering prong regarding individual’s privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and noted that individual has significant privacy interest in compilation of one’s criminal history). Moreover, we find a compilation of a private citizen’s criminal history is generally not of legitimate concern to the public. We note, however, information that refers to an individual solely as a victim, witness, or involved person does not implicate the privacy interest of the individual and may not be withheld under section 552.101 on that basis.

The present request, in part, requires the city to compile unspecified law enforcement records concerning the individual named in the request, thus implicating the named individual’s right to privacy. Therefore, to the extent the city maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the city must withhold any such information under section 552.101 in conjunction with common-law privacy. We note, however, you have submitted information in which the named individual is not listed as a suspect, arrestee, or criminal defendant. This information is not part of a criminal history compilation and, thus, does not implicate the individual’s right to privacy. Accordingly, we will consider your arguments against disclosure for this information.

Section 552.101 of the Government Code also 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;

³The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

(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).

A portion of the submitted information may relate to juvenile delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. However, we are unable to determine the age of the alleged offender. It does not appear that any of the exceptions to confidentiality under section 58.007 apply in this instance. Thus, to the extent the offender was ten years of age or older and under seventeen years of age at the time of the conduct at issue, the information at issue is confidential under section 58.007(c) of the Family Code and the city must withhold this information under section 552.101 of the Government Code. However, to the extent the offender was not ten years of age or older and under seventeen years of age at the time of the conduct at issue, the information at issue is not confidential pursuant to section 58.007(c) and may not be withheld under section 552.101 on that basis. In that instance, we will consider your argument against disclosure of the submitted information.

Section 552.108(a)(2) of the Government Code exempts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state incident report number 13-000346 relates to a concluded case that did not result in a conviction or deferred adjudication. Based on your representations, we conclude the city may withhold the information you have marked in report number 13-000346 under section 552.108(a)(2) of the Government Code.⁴

⁴As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

In summary, to the extent the city maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the city must withhold any such information under section 552.101 in conjunction with common-law privacy. To the extent the offender was ten years of age or older and under seventeen years of age at the time of the conduct at issue, the information we have marked is confidential under section 58.007(c) of the Family Code and the city must withhold this information under section 552.101 of the Government Code. However, if the offender was not ten years of age or older and under seventeen years of age at the time of the conduct at issue, we conclude the city may withhold the information you have marked in report number 13-000346 under section 552.108(a)(2) of the Government Code.

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,



Cristian Rosas-Grillet
Assistant Attorney General
Open Records Division

CRG/cbz

Ref: ID# 547383

Enc. Submitted documents

c: Requestor
(w/o enclosures)