



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 10, 2016

Ms. Lillian Guillen Graham
Assistant City Attorney
City of Mesquite
P.O. Box 850137
Mesquite, Texas 75185-0137

OR2016-03262

Dear Ms. Graham:

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# 600341.

The Mesquite Police Department (the "department") received a request for information pertaining to a specified incident. You state the department will redact the dates of birth you have marked pursuant to Open Records Letter No. 2015-24970 (2015).¹ You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions 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. This section encompasses information protected by other statutes, such as section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. Section 58.007 provides, in pertinent part:

¹Open Records Letter No. 2015-24970 is a previous determination issued to the department authorizing the department to withhold private citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office.

(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.

Fam. Code § 58.007(c), (e), (j)(2). Upon review, we agree the submitted information involves a child engaged in delinquent conduct that occurred after September 1, 1997. *See id.* §§ 51.02(2) (defining "child" as a person who is ten years of age or older and under seventeen years of age at the time of the conduct at issue), .03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision" for purposes of section 58.007). However, as you note, in this instance, the requestor is a parent of the child offender at issue. Accordingly, the department may not withhold this information from this requestor under section 58.007(c). *See id.* § 58.007(e). Nonetheless, section 58.007(j)(2) provides that

information subject to any other exception to disclosure under the Act or law must be redacted. *Id.* § 58.007(j)(2). Thus, we will consider the department's remaining arguments against disclosure for this 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. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). However, we note the public has a legitimate interest in knowing the general details of a crime. *See generally Lowe v. Hearst Communications, Inc.*, 487 F.3d 246, 250 (5th Cir. 2007) (noting a "legitimate public interest in facts tending to support an allegation of criminal activity" (citing *Cinel v. Connick*, 15 F.3d 1338, 1345-46 (5th Cir. 1994))); *Houston Chronicle*, 531 S.W.2d at 186-187 (public has legitimate interest in details of crime and police efforts to combat crime in community). Upon review, we find the information you have marked under common-law privacy is of legitimate public interest. *See Lowe*, 487 F.3d at 250. Therefore, this information is not confidential under common-law privacy and the department may not withhold it under section 552.101 of the Government Code on that basis.

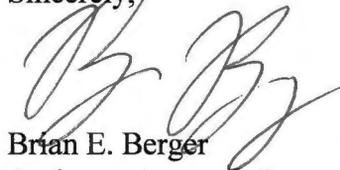
Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130(a). The department must withhold the motor vehicle record information you have marked under section 552.130 of the Government Code. As you raise no further exceptions to disclosure, the remaining information must be released.²

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.

²We note the requestor has a special right of access to the information being released. *See* Fam. Code § 58.007(e). Accordingly, if the department receives another request for this information from a different requestor, it must again seek a ruling from this office.

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,



Brian E. Berger
Assistant Attorney General
Open Records Division

BB/akg

Ref: ID# 600341

Enc. Submitted documents

c: Requestor
(w/o enclosures)