



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 21, 2009

Ms. Tamma Willis  
McClennan County Sheriff's Office  
901 Washington Avenue  
Waco, Texas 76701

OR2009-06950

Dear Ms. Willis:

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# 343726.

The McClennan County Sheriff's Office (the "sheriff's office") received a request for all information arising out of specified investigation. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.<sup>1</sup>

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 made confidential by statute. Section 58.007 of the Family Code governs law enforcement records relating to juvenile offenders. The relevant language of section 58.007 provides:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise,

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<sup>1</sup>To the extent the submitted information is a representative sample of the requested information, we assume that the submitted information is truly representative of the requested information as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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 Subchapter 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). Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. *See* Act of June 2, 1997, 75<sup>th</sup> Leg., R.S., ch. 1086 §§ 20, 55(a), 1997 Tex. Gen. Laws 4179, 4187, 4199; Open Records Decision No. 644 (1996). For purposes of section 58.007, a juvenile suspect or offender is a child as defined by section 51.02 of the Family Code. *See id.* § 51.02(2) ("child" means a person who is ten years of age or older and under seventeen years of age). However, for the purposes of section 58.007(j), we conclude that a juvenile victim or witness is a person who is under eighteen years of age. The submitted information involves allegations of juvenile conduct that occurred after September 1, 1997. *See id.* § 51.03.

(defining "delinquent conduct"). Thus, this information would ordinarily be confidential pursuant to section 58.007 of the Family Code. However, section 58.007(e) allows for the review or copy of juvenile law enforcement records by a child's parent or guardian. *See id.* § 58.007(e). Thus, the requestor in this instance has a right of access to the submitted law enforcement records involving her child. Before a parent may inspect juvenile law enforcement records, any personally identifiable information concerning juvenile suspects, offenders, victims, or witnesses other than the parent's child must be redacted. *See id.* § 58.007(j)(1). Furthermore, section 58.007(j)(2) provides that information subject to any other exception to disclosure under the Act or other law must also be redacted. Accordingly, we will consider your other arguments against disclosure.

Section 552.101 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 section 261.201(a) of the Family Code, which provides as follows:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

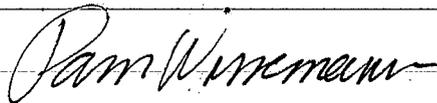
Fam. Code § 261.201(a); *see also id.* § 261.001(1), (4) (defining "abuse" and "neglect" for purposes of Fam. Code ch. 261). Our review of the submitted information shows it was used or developed in an investigation into alleged child abuse under chapter 261. *See id.* §§ 261.001 (defining "abuse" for purposes of chapter 261 of the Family Code), 101.003(a) (defining "child" for purposes of section 261.201 as "person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes"). Therefore, we find that the information is within the scope of section 261.201 of the Family Code. You do not inform us that the sheriff's office has adopted a rule that governs the release of this type of information. Therefore, we assume that no such regulation exists. Given that assumption, the submitted information is confidential in its entirety pursuant to section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). Accordingly, the sheriff's office must withhold

the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.<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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Pamela Wissemann  
Assistant Attorney General  
Open Records Division

PFW/jb

Ref: ID# 343726

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>As our ruling is dispositive, we do not address your other argument against disclosure.