



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 20, 2010

Ms. Beth Maroney  
Paralegal  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283

OR2010-14177

Dear Ms. Maroney:

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# 394179 (COSA File Nos. 10-1045 and 10-1062).

The City of San Antonio (the "city") received two requests from the same requestor for basic information pertaining to all murders from 1995 to 2005.<sup>1</sup> You indicate the city will release some information to the requestor. 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 representative sample of information.<sup>2</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. Section 552.101 encompasses information protected by section 261.201 of the Family Code, which provides in part:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for

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<sup>1</sup>We understand the city received clarification of the instant requests for information. *See* Gov't Code § 552.222(b) (providing if information requested is unclear to governmental body or if a large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used).

<sup>2</sup>We assume that the representative sample of records submitted to this office is truly representative of the requested records 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.

purposes consistent with [the Family 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). Upon review, we agree some of the information at issue was used or developed in investigations under section 261.201(a). *See id.* § 261.001 (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). Accordingly, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. However, you have failed to demonstrate that any of the remaining information at issue is confidential pursuant to section 261.201. Therefore, none of the remaining information at issue is confidential under section 261.201 of the Family Code, and it may not be withheld under section 552.101 on that basis.

Section 552.101 of the Government Code also encompasses section 58.007(c) of the Family Code. 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.* § 58.007(c). The relevant language of section 58.007 reads 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.

*Id.* § 58.007(c). For purposes of section 58.007, “child” means a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). You assert some of the

remaining information involves juveniles engaged in delinquent conduct or conduct in need of supervision. *See id.* § 51.03 (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of Fam. Code § 58.007). Upon review, we agree some of the remaining information, which we have marked, is subject to section 58.007 of the Family Code. It appears none of the exceptions in section 58.007 apply; therefore, the information we have marked is confidential under section 58.007(c) of the Family Code and must be withheld under section 552.101 of the Government Code. We note, however, some of the remaining information at issue does not identify any juveniles engaged in delinquent conduct or conduct indicating a need for supervision as defined by the Family Code. Thus, we find you have failed to demonstrate how this remaining information at issue is subject to section 58.007 of the Family Code, and it may not be withheld under section 552.101 of the Government Code on that basis.

We also note that section 58.007 is inapplicable to some of the remaining information at issue because the juvenile delinquent conduct at issue occurred before September 1, 1997. Prior to its repeal by the Seventy-Fourth Legislature, section 51.14(d) provided for the confidentiality of juvenile law enforcement records. *See* Open Records Decision No. 181 (1977) (concluding that former section 51.14(d) of the Family Code excepts police reports which identify juvenile suspects or furnish basis for their identification). Law enforcement records pertaining to juvenile conduct occurring before January 1, 1996 are governed by former section 51.14(d), which was continued in effect for that purpose. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2591. Section 51.14 only applies to records of a “child,” which is defined as a person who is ten years of age or older and under seventeen years of age. *See* Fam. Code § 51.02(2). In this instance, the information we have marked pertains to juveniles engaged in delinquent conduct before January 1, 1996. *See id.* § 51.03 (defining “delinquent conduct”). Therefore, the information we have marked is confidential under former section 51.14 of the Family Code and must be withheld under section 552.101 of the Government Code.

We note the Seventy-fifth Legislature amended section 58.007 to once again make juvenile law enforcement records confidential effective September 1, 1997. Act of June 2, 1997, 75th Leg., R.S., ch. 1086, 1997 Tex. Sess. Law Serv. 4179, 4187 (Vernon). However, the legislature chose not to make this most recent amendment retroactive in application. Consequently, law enforcement records pertaining to juvenile conduct that occurred between January 1, 1996 and September 1, 1997, are not subject to the confidentiality provisions of either the former section 51.14(d) or the current section 58.007 of the Family Code. Consequently, the remaining information at issue, which involves juvenile delinquent conduct that occurred between January 1, 1996 and September 1, 1997, may not be withheld under section 552.101 in conjunction with either section 58.007 or former section 51.14 of the Family Code.

Next, we note some of the remaining information is confidential under section 552.130 of the Government Code.<sup>3</sup> Section 552.130 provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). Therefore, the city must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code.<sup>4</sup>

In summary, the city must withhold the following: (1) the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code, (2) the information we have marked under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code, (3) the information we have marked under section 552.101 in conjunction with section 51.14 of the Family Code, and (4) the Texas motor vehicle record information we have marked under section 552.130 of the Government Code. The remaining information must be released to the requestor.

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, toll free, at (888) 672-6787.

Sincerely,



Amy L.S. Shipp  
Assistant Attorney General  
Open Records Division

ALS/tp

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<sup>3</sup>The Office of the Attorney General will raise a mandatory exception like section 552.101 of the Government Code on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>4</sup>This office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies that authorizes withholding ten categories of information, including Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

Ref: ID# 394179

Enc. Submitted documents

c: Requestor  
(w/o enclosures)