



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 22, 2012

Ms. Janet I. Monteros
Assistant County Attorney
El Paso County
500 East San Antonio
El Paso, Texas 79901

OR2012-07750

Dear Ms. Monteros:

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# 454749 (El Paso CA-OP-12-117).

The El Paso County Sheriff's Office (the "sheriff") received a request for a specified police report. 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. This section encompasses information protected by other statutes, such as section 58.007 of the Family Code, which 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.

...

(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). 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. 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. *See id.* § 51.02(2). Upon review, we find the submitted information involves juvenile delinquent conduct occurring after September 1, 1997. *See id.* § 51.03(a) (defining juvenile "delinquent conduct" for purposes of section 58.007). Therefore, the submitted information is within the scope of section 58.007(c). In this instance, however, the requestor is the juvenile suspect listed in the submitted report, and is now an adult. Therefore, the requestor has a right to inspect or copy his own law enforcement records, and the sheriff may not withhold the submitted information from this requestor under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. *See id.* § 58.007(e) Section 58.007(j) provides, however, that information subject to any other exception to disclosure under the Act or other law must be redacted. *Id.* § 58.007(j)(2).

Accordingly, we will consider whether the submitted information must be withheld under any other exception to disclosure.

Section 552.101 of the Government Code also encompasses section 261.201 of the Family Code.¹ Section 261.201 provides, in relevant part, as follows:

(a) [T]he 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). Upon review, we find the submitted information was used or developed in an investigation of alleged or suspected child abuse conducted by the sheriff. *See id.* §§ 261.001(1)(E) (defining “abuse” for the purposes of chapter 261 of the Family Code as including offense of aggravated sexual assault under Penal Code section 22.021). Accordingly, we find this information is subject to chapter 261 of the Family Code. As we have no indication that the sheriff has adopted a rule that governs the release of this type of information, we assume that no such rule exists. We therefore conclude that the submitted information is confidential under section 261.201(a). Accordingly, the submitted information must be withheld in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family 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.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

¹The 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).

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,

A handwritten signature in black ink, appearing to read "Kristi L. Wilkins". The signature is fluid and cursive, with a large initial "K" and a long, sweeping underline.

Kristi L. Wilkins
Assistant Attorney General
Open Records Division

KLW/bhf

Ref: ID# 454749

Enc. Submitted documents

c: Requestor
(w/o enclosures)