



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 10, 2012

Ms. Jennafer G. Tallant
Denton, Navarro, Rocha & Bernal
2517 North Main Avenue
San Antonio, Texas 78212-4685

OR2012-10622

Dear Ms. Tallant:

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# 458948.

The City of Cibolo (the "city"), which you represent, received a request for four specified police reports. The city will release two of the reports and redact driver's license information pursuant to section 552.130 of the Government Code.¹ The city claims the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions the city claims 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 made confidential by other statutes, such as section 261.201(a) of the Family Code, which provides as follows:

¹Section 552.130(c) of the Government Code authorizes a governmental body to redact, without the necessity of requesting a decision from this office, driver's license information as described in subsection 552.130(a)(1). *See* Gov't Code § 552.130(c); *see also id.* § 552.130(d)-(e) (governmental body withholding information pursuant to section 552.130(c) must provide certain notice to requestor and requestor may appeal governmental body's decision to withhold information under section 552.130(c) to attorney general).

(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). Because exhibit C is used or developed in an investigation of child abuse, the documents are within the scope of section 261.201 of the Family Code. The city has not indicated it 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 requested documents are confidential pursuant to section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). Accordingly, the city must withhold exhibit C from disclosure under section 552.101 of the Government Code as information made confidential by law.

Next, we address the city's contention section 58.007 of the Family Code makes exhibit D confidential. Section 58.007 protects the law enforcement records of juveniles and 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.

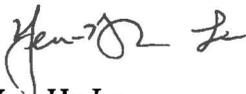
Fam. Code § 58.007(c). For purposes of section 58.007(c), "child" means a person who is ten years of age or older and under seventeen years of age at the time the conduct occurred. *See id.* § 51.02(2). Juvenile law enforcement records relating to juvenile delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997 are confidential under section 58.007(c). *See id.* § 51.03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision"). Upon review, we find exhibit D involves a child engaged in delinquent conduct that occurred after September 1, 1997. Further, you inform us the exceptions in section 58.007 do not apply in this instance. Therefore, we conclude exhibit D is confidential under section 58.007(c) of the Family Code. Accordingly, the city must withhold exhibit D under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

In summary, the city must withhold exhibit C under section 261.201 of the Family Code and exhibit D under section 58.007(c) 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 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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/bs

Ref: ID# 458948

Enc. Submitted documents

c: Requestor
(w/o enclosures)