



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 3, 2012

Ms. Elizabeth Hanshaw Winn
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR2012-19423

Dear Ms. Winn:

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# 472938.

The Travis County Sheriff's Office (the "sheriff's office") received a request for all records pertaining to the requestor. You claim the requested 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. Section 552.101 encompasses information protected by other statutes, such as section 261.201 of the Family Code, which provides:

(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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Department of Family and Protective Services] or the Texas Youth Commission, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

Fam. Code § 261.201(a), (k). Upon review, we agree report number 07-19859 pertains to an investigation of alleged or suspected child abuse. *See id.* §§ 261.001(1) (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). Accordingly, report number 07-19859 is within the scope of section 261.201 of the Family Code. We note the requestor, who is not alleged to have committed the suspected abuse, is a parent of the child who is the subject of the submitted report. Pursuant to section 261.201(k), an investigating entity generally may not withhold records subject to section 261.201 from a parent who is not suspected of committing the abuse. *See id.* § 261.201(k). However, we also note the child victim is now an adult. Thus, we find the requestor no longer has a right of access to her adult child’s records under section 261.201(k). *See id.* Therefore, the sheriff’s office must withhold report number 07-19859 under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. However, upon review, we find you have not demonstrated how report number 07-19195 consists of a report of alleged or suspected child abuse or neglect made under chapter 261, or was used or developed in an investigation under chapter 261. Accordingly, the sheriff’s office may not withhold report number 07-19195 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

Section 552.101 also encompasses section 58.007 of the Family Code, which protects the law enforcement records of juveniles. Section 58.007 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.

Id. § 58.007(c), (e). 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 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(b) (defining "conduct indicating a need for supervision"). Upon review, we find report number 07-19195 involves a child engaged in conduct indicating a need for supervision that occurred after September 1, 1997. As such, we find the information at issue is subject to section 58.007(c) of the Family Code. As noted above, although the requestor is a parent of the juvenile at issue in the report, that juvenile is now an adult. Accordingly, the requestor no longer has a right of access to her adult child's records under section 58.007(e). *See id.* § 58.007(e). Therefore, the sheriff's office must withhold report number 07-19195 under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

In summary, in conjunction with section 552.101 of the Government Code, the sheriff's office must withhold report number 07-19859 under section 261.201(a) of the Family Code, and report number 07-19195 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,



Kristi L. Wilkins
Assistant Attorney General
Open Records Division

KLW/ag

Ref: ID# 472938

Enc. Submitted documents

c: Requestor
(w/o enclosures)