



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 3, 2013

Ms. Lysia H. Bowling  
City Attorney  
Office of the City Attorney  
The City of San Angelo  
P.O. Box 1751  
San Angelo, Texas 76902-1751

OR2013-05311

Dear Ms. Bowling:

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# 483516.

The San Angelo Police Department (the "department") 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. Section 552.101 encompasses information protected by other statutes. 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(c) of the Family Code. *See* Fam. Code § 51.03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision"). Section 58.007(c) provides in relevant part:

(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(c), a “child” is a person ten years of age or older and under seventeen years of age at the time of the reported conduct. *See id.* § 51.02(2). However, we note the suspect in the submitted report is seventeen years old. Therefore, the submitted information does not consist of law enforcement records of a juvenile for purposes of section 58.007. *See id.* Accordingly, section 58.007(c) of the Family Code does not apply to the submitted information, and it may not be withheld under section 552.101 of the Government Code on this basis.

Section 552.101 of the Government Code also encompasses section 261.201 of the Family Code, which provides in relevant part:

[T]he following information is confidential, is not subject to public release under [the Act], 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.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

...

(3) the identity of the person who made the report.

*Id.* § 261.201(a), (k), (l)(3). Upon review, we find the submitted information was used or developed in an investigation by the department of alleged or suspected child abuse. *See id.* § 261.001(1)(E) (defining “abuse” for purposes of chapter 261 of the Family Code as including offense of sexual assault under section 22.011 of the Penal Code); *see also* Penal Code § 22.011 (defining “child” for purposes of sexual assault of a child as person under 17 years of age). In this instance, however, the requestor, who is not alleged to have committed the alleged abuse, may be a parent, managing conservator, or other legal representative of the child victim. *See* Fam. Code § 261.201(k). Thus, we must rule conditionally. If the requestor is not a parent, managing conservator, or other legal representative of the child victim named in the report, the department 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. However, if the requestor is a parent, managing conservator, or other legal representative of the child victim named in the report, the department may not withhold the submitted information from the requestor under section 261.201(a). *Id.* In that case, the department must withhold the identity of the person who made the report of abuse, which we have marked, under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code and release the remaining information to the requestor.<sup>1</sup> *Id.* § 261.201(l)(3).

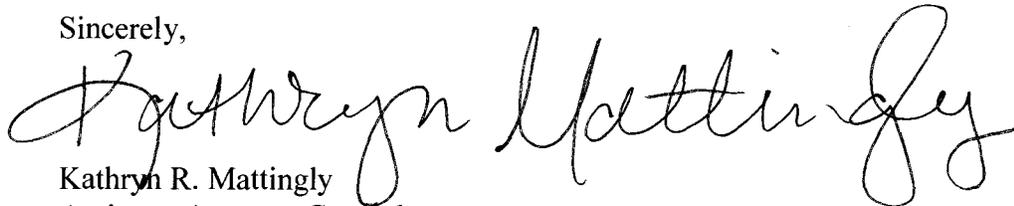
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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<sup>1</sup>We note this requestor has a special right of access under section 261.201(k) of the Family Code to the information being released. Therefore, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.

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,

A handwritten signature in cursive script, reading "Kathryn R. Mattingly". The signature is written in black ink and is positioned to the right of the typed name.

Kathryn R. Mattingly  
Assistant Attorney General  
Open Records Division

KRM/bhf

Ref: ID# 483516

Enc. Submitted documents

c: Requestor  
(w/o enclosures)