



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

April 23, 2013

Mr. Stephen A. Cumbie
Assistant City Attorney
Office of the City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2013-06608

Dear Mr. Cumbie:

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# 484848 (CFW PIR No. W023613).

The City of Fort Worth (the "city") received a request for a specified police report and any reports involving either of two named individuals or a specified address. 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. Section 261.201 of the Family Code 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.

...

(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:

...

(2) any information that is excepted from required disclosure under [the Act], or other law[.]

Fam. Code § 261.201(a), (k), (l)(2). You state the submitted information was used or developed in investigations of alleged child abuse or neglect by the city's police department. *See id.* §§ 261.001 (defining "abuse" and "neglect" for purposes of chapter 261 of the Family Code), 101.003(a) (defining "child" for purposes of this section 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). Upon review, we find report numbers 10-112137 and 12-17272 do not consist of reports of alleged or suspected child abuse or neglect or information used in an investigation under chapter 261. Accordingly, the city may not withhold report numbers 10-112137 and 12-17272 under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.

However, upon review, we agree report number 11-8247 falls within the scope of section 261.201(a) of the Family Code. We note the requestor is a parent of the child victim listed in the report number 11-8247, and is not alleged to have committed the abuse. Thus, pursuant to section 261.201(k), this report may not be withheld from this requestor on the basis of section 261.201(a). *See id.* § 261.201(k). However, section 261.201(l)(2) states any information that is excepted from required disclosure under the Act or other law must still be withheld from disclosure. *Id.* § 261.201(l)(2). Accordingly, we will consider your

argument under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code for report number 11-8247, as well as the remaining information.

Section 552.101 also encompasses section 58.007 of the Family Code. Section 58.007 makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. 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.

...

(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:

(1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child[.]

Id. § 58.007(c), (e), (j)(1). 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 of the reported conduct. *See id.* § 51.02(2). Upon review, we find the three submitted reports involve juvenile delinquent conduct that occurred after September 1, 1997. *See id.* § 51.03 (defining "delinquent conduct" for purposes of Fam. Code § 58.007). Thus, this information is confidential under section 58.007(c). Accordingly, the city must withhold report

number 11-8247 under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

However, because the requestor is the parent of the juvenile offender in report numbers 10-112137 and 12-17272, this requestor has a right to inspect information concerning his child under section 58.007(e). *Id.* § 58.007(e). Accordingly, the city may not withhold report numbers 10-112137 and 12-17272 from this requestor under section 552.101 of the Government Code in conjunction with section 58.007(c). However, section 58.007(j)(1) provides that the personally identifiable information of any juvenile suspect, offender, victim, or witness who is not the child of the requestor must be redacted. *See id.* § 58.007(j)(1). Therefore, the city must withhold the identifying information of the juvenile victims who are not the requestor's children we have marked in report numbers 10-112137 and 12-17272 under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code.

In summary, the city must withhold report number 11-8247 under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. The city must withhold the information we have marked in report numbers 10-112137 and 12-17272 under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. The remaining information must be released.¹

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/bhf

¹We note the information being released contains information to which this requestor has a special right of access. Accordingly, if the city receives another request for the same information from a different requestor, the city must again seek a ruling from this office.

Ref: ID# 484848

Enc. Submitted documents

c: Requestor
(w/o enclosures)