



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 15, 2014

Mr. William P. Chesser
City Attorney
City of Brownwood
P.O. Box 1389
Brownwood, Texas 76804

OR2014-00938

Dear Mr. Chesser:

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# 511248.

The City of Brownwood (the "city") received a request for all police call sheets for three specified dates. You state the city has released some of the requested information. 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, including section 261.201 of the Family Code, which provides, in part, as follows:

(a) [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.

Fam. Code § 261.201(a). Upon review, we find the information marked as Exhibit 2 was used or developed in an investigation of alleged or suspected child abuse or neglect. *See id.* § 261.001 (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining “child” for purposes of chapter 261). Accordingly, we find the information in Exhibit 2 is subject to chapter 261 of the Family Code. You have not indicated the city’s police department has adopted a rule governing the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption, the city must withhold the information marked as Exhibit 2 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

Section 552.101 of the Government Code also encompasses section 58.007 of the Family Code. Section 58.007 provides, in relevant part, the following:

(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). 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). *See id.* § 51.03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision”); *see also id.* § 51.04. 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 conduct. *Id.* § 51.02(2).

You raise section 58.007 of the Family Code for the three reports in Exhibit 3. Upon review, we find report number 13-037661 constitutes a law enforcement record of delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. You do not indicate, nor does it appear that any of the exceptions to confidentiality in

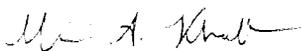
section 58.007 apply to this information. Therefore, the city must withhold report number 13-037661 in Exhibit 3 pursuant to section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. However, as we are unable to determine the ages of the alleged offenders in report numbers 13-037792 and 13-037836, we must rule conditionally with respect to these reports. Thus, to the extent the alleged offenders were ten years of age or older and under seventeen years of age at the time of the reported conduct, report numbers 13-037792 and 13-037836 are confidential under section 58.007(c) of the Family Code and must be withheld in their entireties under section 552.101 of the Government Code. However, to the extent the alleged offenders were not ten years of age or older and under seventeen years of age at the time of the reported conduct, report numbers 13-037792 and 13-037836 are not confidential under section 58.007(c) and may not be withheld under section 552.101 of the Government Code on that basis. In that instance, as you raise no further exceptions to disclosure for this information, the city must release report numbers 13-037792 and 13-037836.

In summary, the city must withhold the information marked as Exhibit 2 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. Further, the city must withhold report number 13-037661 in Exhibit 3 pursuant to section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. To the extent the alleged offenders in report numbers 13-037792 and 13-037836 were ten years of age or older and under seventeen years of age at the time of the reported conduct, the city must withhold these reports under section 58.007(c) of the Family Code in conjunction with section 552.101 of the Government 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Miriam A. Khalifa
Assistant Attorney General
Open Records Division

MAK/akg

Ref: ID# 511248

Enc. Submitted documents

c: Requestor
(w/o enclosures)