



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 5, 2013

Ms. Andrea D. Russell  
Counsel for the City of Euless  
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Fort Worth, Texas 76107

OR2013-05487

Dear Ms. Russell:

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# 483178.

The Euless Police Department (the "department"), which you represent, received a request for incident report number 1200075678. 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 section 58.007 of the Family Code, which 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.

...

(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; and

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

Fam. Code § 58.007(c), (e), (j)(2). Thus, under section 58.007, law enforcement records relating to a juvenile engaged in delinquent conduct or conduct indicating a need for supervision on or after September 1, 1997, are confidential. *See id.* § 51.03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision"). For purposes of section 58.007(c), a "child" is a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). Upon review, we find the submitted report involves juvenile delinquent conduct that occurred after September 1, 1997. Accordingly, this information is generally subject to section 58.007(c).

In this instance, however, the requestor is a parent of the juvenile suspect at issue. Therefore, the requestor has a right to inspect information concerning her child under section 58.007(e). *Id.* § 58.007(e). Accordingly, the department may not withhold the submitted report from the requestor under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. However, section 58.007(j)(1) provides that before a parent may inspect juvenile law enforcement records concerning the child, any personally

identifiable information about a juvenile suspect or offender other than the parent's child must be redacted. *See id.* § 58.007(j)(1). We are unable to determine the age of the remaining suspects or offenders listed in the information at issue. Thus, we must rule conditionally. To the extent the identifying information we have marked under section 58.007(j)(1) of the Family Code pertains to a suspect or offender who was ten years of age or older and under seventeen years of age at the time of the reported conduct, this information must be withheld under section 552.101 of the Government Code in conjunction with section 58.007(j)(1). To the extent the marked information does not pertain to a suspect or offender who was ten years of age or older and under seventeen years of age at the time of the reported conduct, this information may not be withheld under section 552.101 on that basis. In addition, section 58.007(j)(2) provides that information subject to any other exception to disclosure under the Act or other law must be redacted. *Id.* § 58.007(j)(2). Accordingly, we will consider your argument against disclosure of the information at issue.

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

(a) Except as provided by Section 261.203, the 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.

*See id.* § 261.201(a), (k), (l)(3). Upon review, we agree the information at issue was used or developed in an investigation by the department of alleged or suspected child abuse for purposes of section 261.201. *See id.* § 261.001(1)(E) (defining “abuse” for purposes of chapter 261 as including offense of indecency with child under Penal Code section 21.11); *see also* Penal Code § 22.11(a) (defining “child” for purposes of Penal Code section 21.11 as person under 17 years of age). Thus, this information is subject to section 261.201.

However, the requestor is a parent of the alleged child victim at issue. Furthermore, the requestor is not the individual alleged to have committed the abuse. Therefore, the department may not withhold the information at issue from the requestor on the basis of section 261.201(a). *See* Fam. Code § 261.201(k). We note, however, before the department provides any of this information to the requestor, the department must redact the identity of the person who made the report. *See id.* § 261.201(l)(3). Therefore, the department must withhold the identifying information of the reporting party, which we have marked, under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code.

In summary, to the extent the identifying information we have marked under section 58.007(j)(1) of the Family Code pertains to a suspect or offender who was ten years of age or older and under seventeen years of age at the time of the reported conduct, this information must be withheld under section 552.101 of the Government Code in conjunction with the section 58.007(j)(1). Otherwise, this information may not be withheld under section 552.101 of the Government Code on that basis. The department must withhold the identifying information of the reporting party, which we have marked, under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code. As no further exceptions to disclosure are raised for the remaining information, the department must release it.<sup>1</sup>

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<sup>1</sup>We note the requestor has a special right of access to the information being released. *See* Fam. Code §§ 58.007(e), 261.201(k); Gov’t Code § 552.023(a) (“a person or a person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person’s privacy interests.”); *see also* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself or person for whom she is authorized representative). Therefore, if the department receives another request for this same information from a different requestor, it must again seek a ruling from our office.

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](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,



Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/bhf

Ref: ID# 483178

Enc. Submitted documents

c: Requestor  
(w/o enclosures)