



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 29, 2015

Ms. Ylise Y. Janssen  
Senior School Law Attorney  
Austin Independent School District  
1111 West Sixth Street, Suite A240  
Austin, Texas 78703

OR2015-15445

Dear Ms. Janssen:

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# 574877.

The Austin Independent School District (the "district") received separate requests from two requestors for a specified incident report.<sup>1</sup> The district claims the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Initially, we note some of the submitted information is not responsive to the requests for information because it was created after the district received the requests. This ruling does not address the public availability of any information that is not responsive to the requests, and the district is not required to release this information in response to any of the requests.

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<sup>1</sup>We note the district received a third request from a different requestor for this information and requested a separate ruling to withhold it. By letter dated July 6, 2015, the district withdrew this request for a ruling pertaining to the report, which we acknowledged in correspondence dated July 26, 2015. However, the district subsequently informed us it had not withdrawn its request for a ruling regarding the two requests for information at issue in this ruling. Accordingly, we will consider the district's arguments to withhold the submitted information from the two requestors at issue here.

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 section 261.201 of the Family Code, which provides, in relevant 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.

...

(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). The district is not an agency authorized to conduct a chapter 261 investigation. *See id.* § 261.103 (listing agencies that may conduct child abuse investigations). Nevertheless, we find the submitted information was used or developed in

an investigation by the district's police department (the "department") under chapter 261. *See id.* §§ 101.003(a) (defining "child" for purposes of section 261.201), 261.001(1) (defining "abuse" for purposes of section 261.201). Therefore, the information is within the scope of section 261.201 of the Family Code. However, the requestors appear to each be a parent of a child victim at issue in the submitted report, and neither is alleged to have committed the suspected abuse. Thus, the district may not withhold the submitted information from either requestor on the basis of section 261.201(a). *See id.* § 261.201(k). Section 261.201(1)(2) provides any information that is excepted from required disclosure under the Act or other law may still be withheld from disclosure. *Id.* § 261.201(1)(2). Therefore, we must address the district's arguments to withhold the submitted information under the Act.

Section 552.101 of the Government Code also encompasses section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. *See* Fam. Code § 58.007(c). Section 58.007(c) provides the following:

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.* The submitted information consists of law enforcement records of the department involving alleged juvenile delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. *See id.* §§ 51.02(2) (for purposes of section 58.007(c), "child" means person who is ten years of age or older and under seventeen years of age when conduct occurred), .03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision"). The exceptions in section 58.007 do not appear to apply. Therefore, the district must withhold the submitted responsive information under

section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.<sup>2</sup>

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](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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/cbz

Ref: ID# 574877

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)

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<sup>2</sup>As our ruling is dispositive, we do not address the district's other argument to withhold this information.