



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 3, 2015

Mr. Mark E. Dempsey
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR2015-15866

Dear Mr. Dempsey:

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# 573823 (GCA 15-0318).

The Garland Police Department (the "department") received a request for information concerning a named individual. 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 261.201(a) of the Family Code, which provides:

(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.

Fam. Code § 261.201(a). Upon review, we find case number 2011R008868 concerns an investigation of alleged child abuse. *See id.* § 261.001 (defining “abuse” for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining “child” for purposes of chapter 261). You have not indicated the department has adopted a rule governing the release of this type of information. Therefore, we assume no such rule exists. Given that assumption, case number 2011R008868 is confidential under section 261.201 of the Family Code and the department must withhold it under section 552.101 of the Government Code.¹

Section 552.101 of the Government Code also encompasses section 58.007 of the Family Code, which provides:

(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.

...

¹Although the requestor is a recruiter for the United States Armed Forces, the suspect named in this report is not a potential enlistee. Accordingly, we conclude the requestor does not have a right of access to this information. *See* 5 U.S.C. § 9101(b)(1)(C); *see also id.* § 9101(a)(6)(A).

(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[.]

Fam. Code § 58.007(c), (e), (j)(1). 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 younger than seventeen years of age when the conduct occurred. *See id.* § 51.02(2). Upon review, we find the remaining information consists of law enforcement records that involve juvenile delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. Accordingly, this information is subject to section 58.007(c).

However, as previously noted, the requestor is a recruiter for the United States Armed Forces, and we understand the juvenile suspect named in the remaining information is a potential enlistee. Under section 58.007(e), the juvenile may inspect law enforcement records concerning himself. *Id.* § 58.007(e). In this case, the requestor has provided signed, written consent from the individual whose juvenile records are at issue. Therefore, this requestor has a right to inspect the remaining information under section 58.007(e). *Id.* Accordingly, the department may not withhold the remaining information from this requestor under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. However, the department must redact any personally identifiable information concerning any other juvenile suspect, offender, victim, or witness who is not the juvenile suspect at issue under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code.

In summary, the department must withhold case number 2011R008868 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The department must release the remaining information to this requestor but must first redact any personally identifiable information concerning any other juvenile suspect, offender, victim, or witness who is not the juvenile suspect at issue under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code.²

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.

²The requestor has a right of access to the information at issue; so if the department receives another request for this same information from a different requestor, it must again seek a ruling from our 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.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,

A handwritten signature in black ink, appearing to read 'Neal Falgoust', written over the word 'Sincerely,'.

Neal Falgoust
Assistant Attorney General
Open Records Division

NF/som

Ref: ID# 573823

Enc. Submitted documents

c: Requestor
(w/o enclosures)