



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 9, 2015

Mr. James Kopp
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2015-18862

Dear Mr. Kopp:

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# 578766 (COSA Nos. W086812 and W086813).

The City of San Antonio (the "city") received two requests from the same requestor for two specified reports. 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, such as section 261.201 of the Family Code, which provides, in relevant part:

(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). We note event number 2015-0486358 consists of a report of alleged or suspected child abuse made to 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). Accordingly, we find this information is subject to chapter 261 of the Family Code. However, we note the requestor is a parent of the child victim named in the report, and is not alleged to have committed the abuse. Therefore, the city may not withhold the information at issue from the requestor under section 261.201(a). *See id.* § 261.201(k). However, we note section 261.201(l)(2) states any information excepted from required disclosure under the Act or other law may still be withheld from disclosure. *See id.* § 261.201(l)(2). Thus, we will consider your remaining argument under section 552.101 of the Government Code for this information. Further, we find you have failed to demonstrate how the remaining information involves a report of alleged or suspected abuse or neglect of a child made under chapter 261 of the Family Code, or how this information was used or developed in an investigation under chapter 261. Accordingly,

we conclude the city may not withhold any of the remaining information under section 552.101 on that basis.

Section 552.101 of the Government Code also encompasses section 58.007 of the Family Code. Section 58.007 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.

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. *See id.* § 51.03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision”). 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 at issue. *See id.* § 51.02(2). Event number 2015-0486358 involves allegations of delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. However, we are unable to determine the age of the alleged offender. Accordingly, we must rule conditionally. It does not appear that any of the exceptions to confidentiality under section 58.007 apply in this instance. Thus, to the extent the offender at issue was ten years of age or older and under seventeen years of age at the time of the conduct at issue, event number 2015-0486358 is confidential under section 58.007(c) of the Family Code and must be withheld under section 552.101 of the Government Code. However, to the extent the offender at issue was not ten years of age or older and under seventeen years of age at the time of the conduct at issue, event number 2015-0486358 is not confidential pursuant to section 58.007(c) and it may not be withheld under section 552.101 on that basis. Further, we find none of the remaining information identifies a juvenile suspect or offender for purposes of section 58.007. Accordingly, we find the city has not demonstrated the applicability of section 58.007(c) of the Family Code to the remaining information at issue. Thus, the city may not withhold any

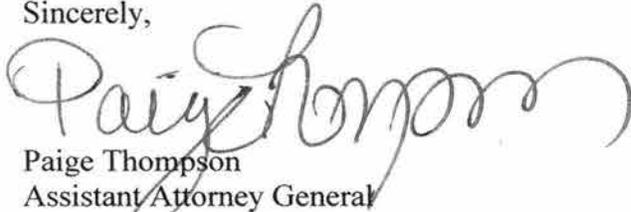
of the remaining information under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

In summary, to the extent the offender at issue was ten years of age or older and under seventeen years of age at the time of the conduct at issue, event number 2015-0486358 is confidential under section 58.007(c) of the Family Code and must be withheld under section 552.101 of the Government Code. The city must release the remaining information.

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,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

Ref: ID# 578766

Enc. Submitted documents

c: Requestor
(w/o enclosures)