



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 26, 2016

Mr. Peter Gruning
Counsel for the City of Lockhart
Peter Gruning Attorney at Law
P.O. Box 314
San Marcos, Texas 78667-0314

OR2016-04645

Dear Mr. Gruning:

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# 599799.

The City of Lockhart (the "city"), which you represent, received a request for information pertaining to a specified incident. The city claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the city claims 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 58.007 of the Family Code. Section 58.007 makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. The relevant language of section 58.007 reads 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[.]

Fam. Code § 58.007(c), (e), (j)(1). 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 reported conduct. *See id.* § 51.02(2). The submitted information involves juvenile delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. *See id.* § 51.03 (defining "delinquent conduct" and "conduct indicating a need for supervision" for purposes of Fam. Code § 58.007). Therefore, this information is generally confidential under section 58.007(c). In this instance, however, the requestor is a parent of one of the juvenile offenders at issue. As a result, this requestor has a right to inspect information concerning his child under section 58.007(e), and it may not be withheld from him under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. *Id.* § 58.007(e). However, section 58.007(j)(1) provides any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the requestor's child must be redacted. *See id.* § 58.007(j)(1). For purposes of section 58.007(j)(1), we conclude a juvenile victim or witness is a person who is under eighteen years of age. Upon review, we agree the city must withhold the identifying information of the other juvenile offender the city has marked in the submitted report under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. Further, the city states it lacks the technical capability to redact the identifying information of the other juvenile offender from the submitted video recordings. Based on this representation, we agree the city must withhold the submitted video recordings in their

entireties under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. However, we are unable to determine the age of the witness in the submitted report. Thus, we must rule conditionally. To the extent the identifying information we have marked pertains to a witness who was under eighteen 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) of the Family Code. To the extent the information we have marked does not pertain to a witness under eighteen years of age at the time of the reported conduct, this information may not be withheld under section 552.101 in conjunction with section 58.007(j)(1). The remaining information must be released.

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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/som

Ref: ID# 599799

Enc. Submitted documents

c: Requestor
(w/o enclosures)