



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 13, 2016

Ms. Stephanie Berry  
Assistant City Attorney  
City of Denton  
215 East McKinney  
Denton, Texas 76201

OR2016-08238

Dear Ms. Berry:

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# 605515.

The City of Denton (the "city") received a request for information pertaining to a specified address since July 1, 2015. The city states it is making some of the requested information available to the requestor, but claims the submitted information is excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. We have considered the claimed exceptions 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 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 Juvenile Justice Department, 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.

Fam. Code § 261.201(a), (k). The city asserts some of the submitted information was used or developed in investigations by the city's police department (the "department") of alleged or suspected child abuse or neglect under chapter 261 of the Family Code. *See id.* §§ 101.003(a) (defining "child" for purposes of section 261.201), 261.001(1), (4) (defining "abuse" and "neglect" for purposes of section 261.201). Upon review, we find some of the submitted information, which we have marked, is within the scope of section 261.201(a). Although the requestor is a parent of the child victim, the requestor was suspected of committing the alleged or suspected abuse. Therefore, we determine the requestor does not have a right of access to this information under section 261.201(k). *See id.* § 261.201(k). Accordingly, we conclude the city must withhold the information we have marked in Exhibits B and C under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.<sup>1</sup> *See Open Records Decision No. 440 at 2 (1986) (predecessor statute).*

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 provides, in part, the following:

Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise,

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<sup>1</sup>As our ruling is dispositive, we do not address the other arguments of the city to withhold this information.

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:

...

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

*Id.* § 58.007(c), (e), (j). Upon review, we find some of the remaining information in Exhibit C involves 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"). Therefore, this information is confidential under section 58.007(c) of the Family Code. However, the requestor is a parent of the juvenile offender in the information at issue. Thus, the city may not withhold this information under section 552.101 of the Government Code on that ground. *See id.* § 58.007(e). Nonetheless, section 58.007(j)(2) provides that information subject to any other exception to disclosure under the Act or law must be redacted. *Id.* § 58.007(j)(2). Thus, we will consider your arguments against disclosure of the information subject to section 58.007, as well as the remaining information in Exhibit C.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). The city states the remaining information in Exhibit C pertains to cases that concluded in results other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to this information.

Section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note basic information includes, among other things, an identification and description of the complainant, but does not include the complainant's date of birth, or the complainant's telephone number or home address, unless the address is the location of the crime. *See* ORD 127 at 3-4. Thus, with the exception of basic information, the city may withhold the remaining information in Exhibit C under section 552.108(a)(2) of the Government Code.

You seek to withhold some of the basic information under section 552.101 in conjunction with section 772.318 of the Health and Safety Code. Section 552.101 of the Government Code also encompasses chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Section 772.318 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 20,000 and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *See* Open Records Decision No. 649 (1996). You indicate the city is part of an emergency communication district that is subject to section 772.318. The city states some of the information at issue consists of the originating telephone numbers and addresses of 9-1-1 callers furnished to the city by a service supplier. Thus, the city must withhold the addresses of the 9-1-1 callers in Exhibit C that we have marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.<sup>2</sup>

To conclude, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. With the exception of basic information, which must be released, the city may withhold the

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<sup>2</sup>As section 552.101 in conjunction with section 261.201 of the Family Code and section 552.108(a)(2) except the telephone numbers of the callers at issue in this instance, we need not address your argument under section 772.318 for that information.

remaining information in Exhibit C under section 552.108(a)(2) of the Government Code. In releasing basic information, the city must withhold the addresses of 9-1-1 callers we have marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.<sup>3</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,



Michael A. Pearle  
Assistant Attorney General  
Open Records Division

MAP/eb

Ref: ID# 605515

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup>Because the requestor has a special right of access to some of the information being released, the city must again seek a decision from this office if it receives another request for the same information from another requestor.