



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 26, 2019

Mr. Thomas Royce Hansen  
Assistant City Attorney  
City of Fort Worth  
200 Texas Street, 3rd Floor  
Fort Worth, Texas 76102

OR2019-11148

Dear Mr. Hansen:

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# 768599 (City PIR No. W082586).

The City of Fort Worth (the "city") received a request for all reports involving the requestor and two named individuals during a specified time period. 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 public 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 58.008 of the Family Code, which provides, in part:

(b) Except as provided by Subsection (d), law enforcement records concerning a child and information concerning a child that are stored by electronic means or otherwise from which a record could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult records;

(2) if maintained electronically in the same computer system as adult records, accessible only under controls that are separate and distinct from the 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 Subsection (c) or Subchapter B, D, or E.

...

(d) Law enforcement records concerning a child may be inspected or copied by:

(1) a juvenile justice agency, as defined by Section 58.101;

(2) a criminal justice agency, as defined by Section 411.082, Government Code;

(3) the child; or

(4) the child's parent or guardian.

(e) Before a child or a child's parent or guardian may inspect or copy a record concerning the child under Subsection (d), the custodian of the record shall redact:

...

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

Fam. Code § 58.008(b), (d), (e)(2); *see id.* § 51.03(a)-(b) (defining "delinquent conduct" and "conduct indicating a need for supervision" for purposes of title 3 of Family Code). Section 58.008(b) is applicable to records of juvenile conduct that occurred before, on, or after September 1, 2017. *See* Act of May 28, 2017, 85th Leg., R.S., S.B. 1304, § 22. The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See* Fam. Code § 51.02(2) (defining "child" for purposes of title 3 of Family Code). We find report number 16-99979 involves a juvenile offender, so as to fall within the scope of section 58.008(b). We are unable to determine, however, whether the requestor is the juvenile suspect's parent or guardian, so as to have a right to inspect law enforcement records concerning the juvenile pursuant to section 58.008(d). *See id.* § 58.008(d). Therefore, we must rule conditionally. To the extent the requestor is not a

parent or legal guardian of the juvenile suspect at issue, then the city must withhold report number 16-99979 under section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code. To the extent the requestor is a parent or legal guardian of the juvenile suspect at issue, then the city may not withhold report number 16-99979 on that ground. However, section 58.008(e)(2) states any information that is excepted from required disclosure under the Act or other law must be withheld from disclosure. *Id.* § 58.008(e)(2). In that event, we will consider the applicability of other exceptions to disclosure. However, we find you failed to demonstrate the remaining information involves a juvenile suspect, offender, or defendant engaging in delinquent conduct or conduct indicating a need for supervision for purposes of section 58.008. Accordingly, the city may not withhold the remaining information under section 552.101 in conjunction with section 58.008.

Section 552.101 of the Government Code also encompasses 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 [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 . . . 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[.]

(3) the identity of the person who made the report.

*Id.* § 261.201(a), (k), (l)(2)-(3). Upon review, we find the submitted information was used or developed in investigations 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 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), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). Accordingly, we find the information at issue is subject to chapter 261 of the Family Code. We note the requestor is the parent of the child victim named in report number 17-67773. However, we further note the requestor is alleged to have committed the suspected abuse or neglect in report number 17-67773. Thus, the requestor does not have a right of access to the information at issue under section 261.201(k). *See id.* § 261.201(k). As you do not indicate the city has adopted a rule that governs the release of this type of information, we assume no such regulation exists. Given that assumption, we conclude report numbers 16-3548 and 17-67773 are confidential pursuant to section 261.201. Therefore, the city must withhold report numbers 16-3548 and 17-67773 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). However, the requestor is the parent of the child victim named in report number 16-99979 and is not alleged to have committed the abuse in the report at issue. We note section 261.201(l)(3) provides the identity of the reporting party must be withheld. Therefore, to the extent report number 16-99979 is not confidential under section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code, the city must withhold the identity of the reporting party under section 552.101 in conjunction with section 261.201(l)(3).

In summary, to the extent the requestor is not a parent or legal guardian of the juvenile suspect at issue, then the city must withhold report number 16-99979 under section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code. To the extent report number 16-99979 is not confidential under section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code, the city must withhold the identity of the reporting party under section 552.101 in conjunction with section 261.201(l)(3) of the Family Code and release the remaining information to this requestor. In either case, the city must withhold report numbers 16-3548 and 17-67773 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

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,

A handwritten signature in black ink, appearing to read "Tim Neal", written in a cursive style.

Tim Neal  
Assistant Attorney General  
Open Records Division

TN/mo

Ref: ID# 768599

Enc. Submitted documents

c: Requestor  
(w/o enclosures)