



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 16, 2019

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

OR2019-13171

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# 765752 (PIR# W081570).

The City of Fort Worth (the "city") received a request for information pertaining to a specified incident involving the requestor's child.¹ 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 58.008 of the Family Code, which provides, in part:

¹You state the city sought and received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

(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:

...

(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:

(1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child; and

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

Fam. Code § 58.008(b), (d)(4), (e); *see id.* § 51.03(a) (defining "delinquent conduct" 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., ch. 746, § 22, 2017 Tex. Sess. Law Serv. 3173, 3187. The juvenile must have been at least ten years old and less than seventeen 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 the submitted information involves children engaged in delinquent conduct, so as to fall

within the scope of section 58.008(b). In this instance, however, the requestor is a parent of one of the juvenile offenders or suspects. As such, the requestor has a right to inspect juvenile law enforcement records concerning this juvenile pursuant to section 58.008(d)(4) of the Family Code. *See id.* § 58.008(d)(4). However, section 58.008(e)(1) provides that any identifiable information about a juvenile suspect, offender, victim, or witness who is not the requestor's child must be redacted. *Id.* § 58.008(e)(1). Accordingly, the city must withhold the identifying information of the other juvenile suspect we have marked under section 552.101 in conjunction with section 58.008(e)(1).² Additionally, section 58.008(e)(2) provides that information subject to any other exception to disclosure under the Act or other law must also be redacted. *Id.* § 58.008(e)(2). Thus, we will consider your remaining argument for the remaining information.

Section 552.101 of the Government Code also encompasses section 261.201 of the Family Code, which provides, in relevant part, the following:

(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 [chapter 261 of the Family Code] 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 [chapter 261 of the Family Code] 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

²As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

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:

...

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

Id. § 261.201(a), (k), (l)(3). The submitted information was used or developed in an investigation by the city's police department of alleged or suspected child abuse and falls within the scope of section 261.201. *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) (defining "abuse" for purposes of chapter 261 of the Family Code). In this instance, however, the submitted information indicates the requestor is a parent of the child victim listed in the information at issue and is not the individual alleged to have committed the suspected abuse. *See id.* § 261.201(k). Thus, the information may not be withheld from this requestor on the basis of section 261.201(a). *Id.* Section 261.201(l)(3), however, states the identity of the reporting party must be withheld. *Id.* § 261.201(l)(3). Accordingly, the city must withhold the reporting party's identity we have marked under section 552.101 in conjunction with section 261.201(l)(3). *Id.*

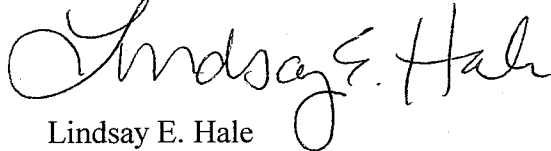
In summary, the city must withhold the identifying information of the other juvenile suspect we have marked under section 552.101 of the Government Code in conjunction with section 58.008(e)(1) of the Family Code. The city must withhold the reporting party's identity we have marked under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code. The city must release the remaining information to this requestor.³

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.

³We note the information being released in this instance includes information that is confidential with respect to the general public. *See* Fam. Code §§ 58.008(d)(4), 261.201(k). Therefore, if the city receives another request for this information from an individual other than this requestor, the city must again seek a ruling from this 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 that reads "Lindsay E. Hale". The signature is written in a cursive style with a large initial "L".

Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/jxd

Ref: ID# 765752

Enc. Submitted documents

c: Requestor
(w/o enclosures)