



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 20, 2020

Mr. M. Shelby Percy
Counsel for the City of Rowlett
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
500 North Akard, Suite 1800
Dallas, Texas 75201

OR2020-26408

Dear Mr. Percy:

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# 851503 (ORR# TM 117177).

The City of Rowlett (the "city"), which you represent, received a request for information pertaining to the requestor's children. The city claims the submitted information is excepted from disclosure under sections 552.101 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. Section 552.101 encompasses section 58.008 of the Family Code, which provides, in part, the following:

(b) Except as provided by Subsection (c), law enforcement records concerning a child and information concerning a child that are stored by electronic means or otherwise and 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[.]

Fam. Code § 58.008(b), (d)(4), (e)(1); *see also 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., ch. 746, § 22.* 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 juvenile offenders, so as to fall within the scope of that section. Therefore, the city must withhold report number 19012495 under section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code.¹

For purposes of section 58.008(d)(4), the term “parent” means “the mother or the father of a child, but does not include a parent whose parental rights have been terminated.” *See id.* § 51.02(9). Although the requestor is a parent of one of the juvenile offenders at issue in report number 20006857, the requestor's parental rights regarding this juvenile offender may have been terminated before the city received the request for information. *See id.* Therefore, we must rule conditionally. If the requestor was not a parent of a juvenile offender at issue in report number 20006857 for purposes of section 51.02(9) of the Family Code when she made her request for information, then the city must withhold report number 20006857 under section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code. If the requestor was a parent of a juvenile offender at issue for purposes of section 51.02(9) when she made her request, then she has access to this information pursuant to section 58.008(d) and the city may not withhold it from her on that ground. *See id.* § 58.008(d). Nevertheless, in that situation the city must withhold the personally identifiable information concerning the other juvenile offenders at issue under

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

section 552.101 of the Government Code in conjunction with section 58.008(e)(1) of the Family Code. *Id.* § 58.008(e)(1).

In summary, the city must withhold report number 19012495 under section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code. If the requestor was not a parent of a juvenile offender in report number 20006857 for purposes of section 51.02(9) of the Family Code when she made her request for information, then the city must withhold this report under section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code. If the requestor was a parent of a juvenile offender in report number 20006857 for purposes of section 51.02(9) of the Family Code when she made her request for information, then the city must withhold the personally identifiable information concerning the other juvenile offenders under section 552.101 of the Government Code in conjunction with section 58.008(e)(1) of the Family Code, but release the remaining information in this report.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/rm

Ref: ID# 851503

Enc. Submitted documents

c: Requestor
(w/o enclosures)