



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 21, 2009

Ms. Ylise Janssen
Senior School Law Attorney
Austin Independent School District
1111 West Sixth Street, Suite A240
Austin, Texas 78703-5338

OR2009-00856

Dear Ms. Janssen:

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# 332810.

The Austin Independent School District (the "district") received a request for records pertaining the district's police department being called to Maplewood Elementary School for incidents involving the requestor's child during a specified time period. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions 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. This section encompasses information protected by other statutes, such as section 58.007 of the Family Code. Section 58.007 provides in pertinent part 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 Subchapter B.

Fam. Code § 58.007(c). Law enforcement records relating to juvenile conduct, whether delinquent conduct or conduct in need of supervision, that occurred on or after September 1, 1997, are confidential under section 58.007 of the Family Code. *See id.* § 51.03 (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of title 3 of the Family Code). For purposes of section 58.007, “child” means a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). In this instance, the incident reports in Exhibit B and C involve allegations of juveniles engaged in delinquent conduct that occurred after September 1, 1997. *See id.* § 51.03. It does not appear that any of the exceptions in section 58.007 of the Family Code apply to this information. Thus, the incident reports in Exhibits B and C are subject to section 58.007(c), and must be withheld under section 552.101 of the Government Code.

Next, we address your arguments against the disclosure of the remaining incident report. Section 552.101 of the Government Code also encompasses section 261.201(a) of the Family Code, which provides as follows:

The following information is confidential, is not subject to public release under Chapter 552, Government Code, 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.

Id. § 261.201(a). The district is not an agency authorized to conduct a chapter 261 investigation. *See id.* §§ 261.301, 261.406. You inform us, however, that the remaining report in Exhibit D was used or developed in an investigation of child abuse under

chapter 261 of the Family Code and was provided to the district by the district's police department. *See id.* § 261.406(b); *see also id.* §§ 261.001 (defining "abuse" for purposes of chapter 261 of the Family Code), 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). Based on your representations and our review, we find that the remaining report in Exhibit D is within the scope of section 261.201 of the Family Code. You have not indicated that the district's police department has adopted a rule that governs the release of this type of information. Therefore, we assume that no such regulation exists. Given that assumption, Exhibit D is confidential pursuant to section 261.201 of the Family Code and must be withheld under section 552.101 of the Government Code.¹

In summary, the district must withhold Exhibits B and C under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. The district must also withhold Exhibit D under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. As our ruling is dispositive, we need not address your remaining arguments against the disclosure of the submitted information.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Laura E. Ream
Assistant Attorney General
Open Records Division

LER/jb

¹We note that if the Texas Department of Family and Protective Services has created a file on this case, the child's parent may have the statutory right to review these files. *See* Fam. Code § 261.201(g).

Ref: ID# 332810

Enc. Submitted documents

cc: Requestor
(w/o enclosures)