



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 22, 2009

Ms. YuShan Chang
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2009-05310

Dear Ms. Chang:

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# 340760.

The City of Houston (the "city") received a request for the name, date of birth, and the system person number of the defendant in each of twelve specified incident reports. You state that report number 143107508 does not exist, and thus you maintain no information responsive to that report.¹ You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that a portion of the submitted information is not responsive to the instant request for information. The requestor asks for only the name, date of birth, and the system person number of the defendant in each of twelve specified incident reports. However, you have submitted the entirety of the specified reports. Thus, any information contained in the reports that does not consist of the name, date of birth, or the system person number of the defendants is not responsive to the present request. This ruling does not address the public

¹We note that the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

availability of any information that is not responsive to the request and the city is not required to release that information in response to the request.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 261.201(a) of the Family Code 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, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). You state that the information at issue consists of files, reports, records, communications, or working papers used or developed in abuse investigations under chapter 261; therefore, this information is within the scope of section 261.201 of the Family Code. *See id.* §§ 101.003(a) (defining "child" for purposes of section 261.201 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)(E) (definition of child abuse includes sexual assault or aggravated sexual assault under Penal Code sections 22.011 and 22.021). You do not indicate that the city adopted a rule governing the release of this type of information; therefore, we assume that no such regulation exists. Given that assumption, we conclude that the responsive information is confidential pursuant to section 261.201 of the Family Code, and the city must withhold this information under section 552.101 of the Government Code. *See Open Records Decision No. 440 at 2 (1986)* (predecessor statute). As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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,



Adam Leiber
Assistant Attorney General
Open Records Division

ACL/jb

Ref: ID# 340760

Enc. Submitted documents

c: Requestor
(w/o enclosures)