



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 7, 2009

Mr. Robert E. Hager  
Nichols, Jackson, Dillard, Hager, & Smith, L.L.P.  
Attorney for City of Rowlett  
1800 Lincoln Plaza  
500 North Akard  
Dallas, Texas 75201

OR2009-17257

Dear Mr. Hager:

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# 363404.

The Rowlett Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident. You claim that 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. This section encompasses information made confidential by other statutes, such as section 261.201 of the Family Code. Section 261.201 provides in 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, other than the [Department of Family and Protective Services] or the Texas Youth Commission, 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:

(1) any personally identifiable information about a victim or witness under 18 years of age unless that victim or witness is:

(A) the child who is the subject of the report;

or

(B) another child of the parent, managing conservator, or other legal representative requesting the information;

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

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

Fam. Code § 261.201(a), (k)-(l). We find that the submitted report was used or developed in an investigation of alleged or suspected child abuse under chapter 261 of the Family Code. *See id.* § 261.001(1)(E) (defining “abuse” for purposes of Fam. Code ch. 261, as including offense of aggravated sexual assault under Penal Code § 22.021). We therefore conclude that the submitted information is generally confidential under section 261.201. However, the requestor is a parent of the child who is listed as the victim of the alleged or suspected abuse

and he is not alleged to have committed the abuse. Therefore, the submitted report may not be withheld from this requestor on the basis of section 261.201(a). *See id.* § 261.201(k). However, section 261.201(1)(2) provides that information subject to any other exception to disclosure under the Act or other law must also be redacted. *Id.* § 261.201(1)(2). Accordingly, we address your arguments under section 58.007 of the Family Code and common-law privacy for the submitted report.

Section 552.101 also encompasses section 58.007 of the Family Code. Section 58.007 provides:

(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, D, and E.

*Id.* § 58.007. The submitted report involves juvenile delinquent conduct that occurred after September 1, 1997. *See id.* § 51.03(a) (defining “delinquent conduct” for purposes of Fam. Code § 58.007); *see also id.* § 51.02(2) (defining a “child” as a person who is ten years of age or older and under seventeen years of age for purposes of section 58.007). You do not inform us, and it does not appear, that any of the exceptions in section 58.007 of the Family Code apply. Accordingly, the submitted report must be withheld in its entirety under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. As our ruling is dispositive, we need not address your remaining argument 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](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, toll free, at (888) 672-6787.

Sincerely,



Christina Alvarado  
Assistant Attorney General  
Open Records Division

CA/rl

Ref: ID# 363404

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)