



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 5, 2010

Ms. Yvette Aguilar
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2010-00144

Dear Ms. Aguilar:

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# 366390.

The Corpus Christi Police Department (the "department") received a request for twenty-two specified police reports. The submitted information reflects the department has released all but three of the reports. You claim the submitted reports are 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 261.201 of the Family Code, which provides as follows:

(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 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). You state, and we agree, that the submitted information involves reports of alleged or suspected child abuse. *See* Fam. Code §§ 261.001 (defining “abuse” for purposes of chapter 261 of the Family Code); *see also id.* 101.003(a) (defining “child” for purposes 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). Therefore, we find that incident report 0904001744 is confidential pursuant to section 261.201 of the Family Code and must be withheld in its entirety under section 552.101 in conjunction with section 261.201 of the Family Code. We also find that call reports 0702009911

and 0702011204 are generally confidential under section 261.201 of the Family Code. However, in this case, the requestor is the parent of the child victim listed these reports and is not alleged to have committed the suspected abuse. Therefore, as you acknowledge, these reports may not be withheld from the requestor under section 552.101 in conjunction with section 261.201(a). *Id.* § 261.201(k). However, section 261.201(1)(3) requires that before a parent may inspect such records the identity of the reporting party must be withheld. *Id.* § 261.201(1)(3). Section 261.201(1)(2) further provides that any information that is excepted from required disclosure under the Act or other law may be withheld from disclosure. *Id.* § 261.201(1)(2). Accordingly, we will consider your remaining arguments against disclosure for reports 0702009911 and 0702011204.

Section 552.101 also encompasses section 58.007 of the Family Code. Juvenile law enforcement records relating to juvenile delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997 are confidential under section 58.007. *See id.* § 51.03 (defining "delinquent conduct" and "conduct indicating a need for supervision"). 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 Fam. Code* § 51.02(2). The relevant language of section 58.007 reads 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 Subchapters B, D, and E.

Id. § 58.007(c). You indicate that reports 0702009911 and 0702011204 pertain to juvenile delinquent conduct that occurred after September 1, 1997. Upon review, we agree that these reports are within the scope of section 58.007. Therefore, the department must withhold reports 0702009911 and 0702011204 in their entirety under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

In summary, the department must withhold report 0904001744 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The department

must withhold reports 0702009911 and 0702011204 under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.¹

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, toll free, at (888) 672-6787.

Sincerely,



Pamela Wissemann
Assistant Attorney General
Open Records Division

PFW/jb

Ref: ID# 366390

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we do not address your remaining argument against disclosure.