



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 27, 2010

Mr. Mark G. Mann
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR2010-07760

Dear Mr. Mann:

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#380942 (GCA10-0208).

The Garland Police Department (the "department") received a request for all incident reports pertaining to a minor in 2008 and all reports pertaining to a specified address in April, May, September, and October of 2008. You state you will release some of the responsive information to the requestor. 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. Section 552.101 encompasses section 261.201(a) of the Family Code, which provides:

(a) Except as provided by Section 261.203, 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.

Fam. Code § 261.201(a). You argue that the submitted information pertains to investigations of alleged abuse or neglect of a child. Upon review, we agree that the majority of the submitted information is within the scope of section 261.201 of the Family Code. *See id.* § 261.001 (defining “abuse” and “neglect” for the purposes of chapter 261 of the Family Code); *see also id.* § 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). You have not indicated whether the department has adopted a rule that governs the release of this type of information; therefore, we assume no such regulation exists. We note, however, that Report #2008R024998 pertains to a juvenile runaway. Although the report contains a CPS referral, you have not explained how this information was used or developed in a chapter 261 investigation. Thus, this information may not be withheld on that basis. Accordingly, with the exception of Report #2008R024998, the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (addressing predecessor statute).

Section 552.101 also encompasses section 58.007 of the Family Code.¹ Juvenile law enforcement records relating to delinquent conduct that occurred on or after September 1, 1997 are confidential under section 58.007. 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

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

(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.

...

(e) Law enforcement records and files concerning a child may be inspected or copied by a juvenile justice agency as that term is defined by Section 58.101, a criminal justice agency as that term is defined by Section 411.082, Government Code, the child, and the child's parent or guardian.

...

(j) Before a child or a child's parent or guardian may inspect or copy a record or file concerning the child under Subsection (e), the custodian of the record or file shall redact:

(1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child; and

(2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law.

Fam. Code § 58.007(c), (e), (j). For purposes of section 58.007(c), "child" means a person who is ten years of age or older and under seventeen years of age at the time of the reported conduct. *See id.* § 51.02(2). Report #2008R024998 pertains to a juvenile runaway. Thus, we find this report involves a juvenile engaged in conduct indicating a need for supervision. *See id.* § 51.03(b) (defining "conduct indicating a need for supervision" to include "the voluntary absence of a child from the child's home without the consent of the child's parent or guardian for a substantial length of time or without intent to return"). Therefore, we agree this report is generally confidential under section 58.007(c). In this instance, the requestor is the parent of the juvenile suspect at issue. As such, the department may not withhold #2008R024998 under section 552.101 in conjunction with section 58.007(c) from this requestor. *Id.* § 58.007(e).

In summary, with the exception of Report #2008R024998, the department must withhold the submitted information pursuant to section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. Report #2008R024998 must be released.²

²We note that the requestor has a special right of access to the information being released in this instance. Because such information is confidential with respect to the general public, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.

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,

A handwritten signature in black ink, appearing to read 'VB', is written over a horizontal line.

Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/jb

Ref: ID#380942

Enc. Submitted documents

c: Requestor
(w/o enclosures)