



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 6, 2012

Ms. Evelyn Njuguna  
Staff Attorney  
Houston Police Department  
1200 Travis  
Houston, Texas 77002-6000

OR2012-17796

Dear Ms. Njuguna:

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# 474621 (OR No. 12-6094).

The Houston Police Department (the "department") received a request for information pertaining to four specified incidents. You claim 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. Section 552.101 encompasses information protected by other statutes, such as section 261.201 of the Family Code, which provides in relevant part:

(a) Except as provided by Section 261.203, the 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, 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 Exhibit 2 was developed or used in an investigation of alleged or suspected child abuse. *See id.* § 261.001(1)(E) (definition of “abuse” for purposes of chapter 261 of the Family Code includes indecency with child, sexual assault, and aggravated sexual assault under Penal Code sections 21.11, 22.011, and 22.021); *see also* Penal Code §§ 21.11 (defining “child” for purposes of section 21.11 as a minor younger than 17 years of age), 22.011(c)(1) (defining “child” for purposes of sections 22.011 and 22.021 as “a person younger than 17 years of age”), .021(b)(1). Upon review, we agree section 261.201 is applicable to Exhibit 2. As you do not indicate the department has adopted a rule governing the release of this type of information, we assume no such regulation exists. Given this assumption, we conclude Exhibit 2 is confidential under section 261.201 of the Family Code and must be withheld from disclosure in its entirety under section 552.101 of the Government Code.<sup>1</sup> *See Open Records Decision No. 440 at 2 (1986) (construing statutory predecessor to section 261.201).*

Section 552.101 of the Government Code also encompasses section 58.007 of the Family Code. Section 58.007(c) 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.

Fam. Code § 58.007(c). Section 58.007(c) is applicable to records of juvenile delinquent conduct or conduct indicating a need for supervision that occurred on or after

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<sup>1</sup>As our ruling is dispositive for this information, we need not address your remaining argument against its disclosure.

September 1, 1997. *See id.* § 51.03(a), (b)(3) (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of section 58.007). 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). Upon review, we agree Exhibits 3 and 4 constitute juvenile law enforcement records pertaining to conduct indicating a need for supervision that occurred after September 1, 1997. Furthermore, none of the exceptions in section 58.007 apply to this information. Therefore, Exhibits 3 and 4 are confidential under section 58.007 of the Family Code and must be withheld in their entirety under section 552.101 of the Government Code.

In summary, the department must withhold Exhibit 2 in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The department must withhold Exhibits 3 and 4 under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

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,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/ag

Ref: ID# 474621

Enc. Submitted documents

c: Requestor  
(w/o enclosures)