



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 4, 1998

Mr. Jason C. Marshall
Nichols, Jackson, Dillard, Hager
& Smith, L.L.P.
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

OR98-0343

Dear Mr. Marshall:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 114188.

The City of Coppell (the "city") received a request from a parent for police reports concerning incidents in which the police have been called to her child's school and home. You assert that the records at issue are confidential because they concern juveniles and also that the records are excepted from disclosure pursuant to section 552.108 of the Government Code.

We have reviewed the reports at issue, which concern juveniles. One report concerns an incident that occurred in August, 1997, and one concerns an incident that occurred in October of 1997. Also included in the documents submitted is an "information report" from 1995. We note that the law governing access to these reports is different.

The 1995 record appears to be a report of suspected child abuse. Subsection (a) of section 261.201 of the Family Code provides:

(a) 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 . . . [the Family] 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 . . . chapter [261 of the Family Code] 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 . . . chapter [261 of the Family Code] or in providing services as a result of an investigation.

Thus, this report may be disclosed only for purposes consistent with the Family Code and applicable federal or state law or under rules adopted by the Coppell Police Department, which is the agency that investigated the allegation.¹ Since you have not informed this office that the Coppell Police Department has adopted any rules providing for release of this information, we conclude that the 1995 "information report" is confidential and may not be disclosed. We will now address your arguments against releasing the 1997 reports.

Open Records Decision No. 644 (1996) held that section 58.007 of the Family Code does not make confidential juvenile law enforcement records concerning juvenile conduct occurring on or after January 1, 1996, that are maintained by law enforcement agencies. However, juvenile offender records held by law enforcement agencies are now expressly confidential under section 58.007(c) of the Family Code. The relevant language of amended Family Code section 58.007(c) reads as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child may not be disclosed to the public and shall be:

- (1) kept separate from adult files and records, and
- (2) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

Section 58.007(c) of the Family Code applies to juvenile law enforcement records concerning conduct occurring on or after September 1, 1997, that are maintained by law enforcement agencies. However, Open Records Decision No. 644 (1996), as it interpreted the prior law, still applies to records concerning juvenile conduct that occurred from January 1, 1996 to August 31, 1997.

The October 1997 report involving juvenile conduct is protected from disclosure under section 58.007(c) of the Family Code, and may not be disclosed. However, the August 1997 report involving juvenile conduct is not protected from disclosure under section 58.007, as the conduct is governed by the law that was in effect at the time. We will address your assertion that section 552.108 protects the August 1997 report from disclosure.

¹We note that the file at issue also contains records of the Department of Protective and Regulatory Services (the "department"). Section 261.201(f) provides that the department, upon request and subject to its own rules:

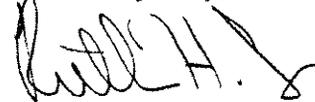
shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect information concerning the reported abuse or neglect that would otherwise be confidential under this section if the department has edited the information to protect the confidentiality of the identity of the person who made the report and any other person whose life or safety may be endangered by the disclosure.

You submitted to this office several different requests, apparently received during the same time period, that sought various police reports. You submitted a letter concerning all of the requests, asserting generally that section 552.108 is applicable to the information. You specifically argued that the report at issue is confidential because it contains information about a juvenile. You did not, however, specifically explain how section 552.108 is applicable to this report. We decline to speculate as to whether there is a pending prosecution, an ongoing investigation, or if and how the investigation or prosecution has concluded. It is the governmental body's responsibility to explain the applicability of section 552.108(a).

We note that generally, a governmental body claiming an exception from disclosure under section 552.108(a)(1) must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *Ex parte Pruitt*, 551 S.W. 2d 706 (Tex. 1977). A governmental body claiming section 552.108(a)(2) should demonstrate that the requested information relates to a concluded criminal investigation that has come to some type of final result other than a conviction or deferred adjudication. Since you have not shown the applicability of section 552.108 to the records at issue, you must release the August 1997 report to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 114188

Enclosures: Submitted documents