



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 4, 2009

Ms. Evelyn Njuguna
Assistant City Attorney
City of Houston
P. O. Box 368
Houston, Texas 77001-0368

OR2009-07671

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# 345050.

The Houston Police Department (the "department") received a request for four specified incident reports pertaining to a named individual. You claim that the requested information is excepted from disclosure under sections 552.101, 552.108, 552.130, 552.136, and 552.147 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." This section encompasses information protected by other statutes. Section 261.201(a) of the Family Code provides as follows:

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, 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). In this instance, the submitted information relates to an investigation of alleged sexual assault of a child and sexual performance by a child. *See id.* § 261.001(1)(E) (definition of “abuse” includes sexual assault under Penal Code section 22.011); *see also id.* § 261.001(1)(G) (definition of “abuse” includes compelling or encouraging the child to engage in sexual conduct as defined by Penal Code section 43.01). Thus, we find that this information is within the scope of section 261.201(a). You do not indicate that the department has adopted a rule governing the release of this type of information; therefore, we assume that no such regulation exists. Based on this assumption, we conclude that the submitted information is confidential pursuant to section 261.201 of the Family Code, and the department must withhold it under section 552.101 of the Government Code. *See Open Records Decision No. 440 at 2 (1986) (predecessor statute).* As our ruling is dispositive, we need not address your remaining arguments 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, 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 at (512) 475-2497.

Sincerely,



Adam Leiber
Assistant Attorney General
Open Records Division

ACL/eeg

Ref: ID# 345050

Enc. Submitted documents

c: Requestor
(w/o enclosures)