



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 22, 2009

Mr. B. Chase Griffith
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2009-08511

Dear Mr. Griffith:

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# 346829.

The McKinney Police Department (the "department"), which you represent, received a request for information pertaining to a named individual. 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 of the Family Code, which provides in relevant part:

(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 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). Upon review of the submitted information, we conclude that Case Nos. 1-08-006257 and 1-07-072365 constitute reports of alleged or suspected abuse or neglect made under chapter 261 of the Family Code. *See id.* § 261.001(1), (4) (defining “child abuse” and “neglect” for purposes of section 261.201); *id.* § 101.003(a) (defining “child” for purposes of section 261.201). Therefore, these reports are subject to section 261.201(a)(1). You have not indicated that the department has adopted a rule governing the release of this type of information. Accordingly, we find Case Nos. 1-08-006257 and 1-07-072365 are confidential under section 261.201(a)(1) of the Family Code and the department must withhold this information in its entirety under section 552.101 of the Government Code. *See* Open Records Decision No. 440 at 2 (1986) (construing predecessor statute).

Section 552.101 also encompasses section 58.007 of the Family Code, which provides for the confidentiality of juvenile law enforcement records related to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. *See* Fam. Code § 51.03 (defining “delinquent conduct” and “conduct indicating a need for supervision”). The relevant part of section 58.007(c) 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 Subchapter B, D, and E.

Fam. Code § 58.007(c). 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. *See id.* § 51.02(2). Upon review, we find that the remaining information constitutes confidential law enforcement records under section 58.007(c). Moreover, it does not appear that any of the exceptions in

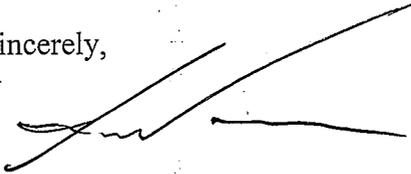
section 58.007 apply to this information. Accordingly, the department must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.¹

In summary, the department must withhold Case Nos. 1-08-006257 and 1-07-072365 under section 552.101 in conjunction with section 261.201. The remaining information must be withheld under section 552.101 in conjunction with section 58.007.

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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

Ref: ID# 346829

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we need not address your remaining argument.