



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 15, 2009

Ms. Teresa J. Brown
Sr. Open Records Specialist
City of Plano Police Department
P.O. Box 860358
Plano, Texas 75086-0358

OR2009-09767

Dear Ms. Brown:

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# 349140.

The City of Plano Police Department (the "department") received a request for information related to two specified incidents. You state the department has released some information to the requestor. You claim 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. This section encompasses information protected by other statutes, including section 261.201 of the Family Code, which provides as follows:

(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, 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). The submitted police report involves an alleged assault that occurred between a juvenile suspect and an adult victim and, thus, is not a report of alleged or suspected abuse or neglect made under section 261.201(a)(1). Furthermore, you have not explained how the submitted police report was used or developed in an investigation by the department of child abuse or neglect for purposes of section 261.201(a)(2). Therefore, we find the submitted police report is not confidential under chapter 261. We note, however, the submitted information contains a report created by Child Protective Services ("CPS") that was used or developed in an investigation by CPS of alleged child abuse or neglect under chapter 261. Thus, we find the CPS report, which we have marked, is within the scope of section 261.201. You have not indicated CPS has adopted a rule that allows for the release of these records in this instance; therefore, we assume that no such regulation exists. Therefore, the department must withhold the CPS report we have marked 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 (1986) (predecessor statute). The remaining information is not confidential under section 261.201 of the Family Code and may not be withheld under section 552.101 on that basis.

Section 552.101 also encompasses section 58.007 of the Family Code, which provides 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.

(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, "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 find the submitted police report involves allegations of juvenile conduct in violation of a penal statute that occurred after September 1, 1997. Thus, this information is subject to section 58.007. We find, however, the requestor is the juvenile offender listed in the report. Therefore, the department may not withhold the report from this requestor under section 58.007(c). *See id.* § 58.007(e). However, section 58.007(j)(2) provides that information subject to any other exception to disclosure under the Act or other law must be redacted. *See id.* § 58.007(j)(2). We note the submitted police report contains information subject to section 552.130 of the Government Code.¹ Therefore, we will address this exception pursuant to section 58.007(j)(2) of the Family Code.

Section 552.130 excepts from disclosure "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state[.]" Gov't Code § 552.130. Accordingly, the department must withhold the Texas driver's license number we have marked pursuant to section 552.130 of the Government Code.

In summary, the department must withhold the marked CPS report under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code and the Texas

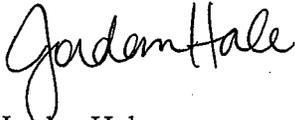
¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

driver's license number we have marked pursuant to section 552.130 of the Government Code. The remaining information must be released.²

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,



Jordan Hale
Assistant Attorney General
Open Records Division

JH/eeg

Ref: ID# 349140

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

²We note that because this requestor has a special right of access to information that would ordinarily be confidential under section 58.007 of the Family Code, the department must again seek a decision from this office if it receives another request for the same information from a different requestor.