



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 8, 2010

Ms. Stephanie M. Berry
Assistant City Attorney
City of Denton
215 East McKinney
Denton, Texas 76201

OR2010-03334

Dear Ms. Berry:

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# 372050.

The Denton Police Department (the "department") received a request for the report pertaining to case number 09015431. You claim the submitted report is excepted from disclosure under sections 552.101, 552.103, 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 public 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, including section 58.007 of the Family Code. Juvenile law enforcement records relating to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997 are confidential under section 58.007. *See id.* § 51.03 (defining "delinquent conduct" and "conduct indicating a need for supervision"). The report pertaining to case number 09015431 involves an allegation of juvenile delinquent conduct that occurred after September 1, 1997. We note, however, that the requestor is the mother of the juvenile offender. A governmental body may not withhold a child's law enforcement records from the child's parent under section 58.007(c). *Id.* § 58.007(e). However, pursuant to section 58.007(j), a governmental body may raise other exceptions to disclosure of those records. *Id.* § 58.007(j)(2). Therefore, we will consider your arguments against disclosure.

Section 552.101 also encompasses section 261.201 of the Family Code, which provides in part as follows:

(a) [T]he 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

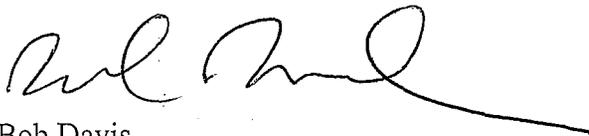
(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). Upon review, we find the submitted report was used or developed in an investigation of alleged child abuse. *See id.* §§ 261.001(1)(E) (definition of “abuse” for purposes of chapter 261 includes sexual assault under section 22.011, Penal Code). Therefore, this information is within the scope of section 261.201 of the Family Code. You do not inform us that the department has adopted a rule that governs the release of this type of information. Thus, we assume that no such regulation exists. Given that assumption, the department must withhold the submitted information 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)*. 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, toll free, at (888) 672-6787.

Sincerely,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/cc

Ref: ID# 372050

Enc. Submitted documents

cc: Requestor
(w/o enclosures)