



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 12, 2011

Ms. J. Middlebrooks
Assistant City Attorney
Criminal Law and Police Section
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2011-05053

Dear Ms. Middlebrooks:

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# 414207 (DPD PIR# 11-00700).

The Dallas Police Department (the "department") received a request for investigation records pertaining to service numbers 0016151-Y and 0016108-Y. You claim the requested investigation records are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

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 made confidential by other statutes, such as section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. The relevant language of section 58.007 reads:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise,

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and, therefore, does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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 Subchapters 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 at the time of the reported conduct. *See id.* § 51.02(2). Service number 0016108-Y involves a twelve-year-old individual suspected of assault. Thus, we find the investigation records pertaining to service number 0016108-Y involve juvenile delinquent conduct. *See id.* § 51.03(a) (defining juvenile “delinquent conduct” for the purposes of section 58.007). It does not appear any of the exceptions in section 58.007 of the Family Code apply. Therefore, we find the investigation records pertaining to service number 0016108-Y are confidential under section 58.007(c) of the Family Code and must be withheld under section 552.101 of the Government Code.²

Section 552.101 also encompasses section 261.201(a) of the Family Code, which provides, in relevant part:

(a) [T]he 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.

²As our ruling is dispositive, we need address your remaining arguments against disclosure for this information.

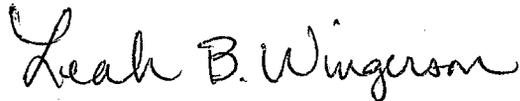
Id. § 261.201(a). You state the investigation records pertaining to service number 0016151-Y were used or developed in an investigation of alleged child abuse. *See id.* § 261.001(1) (defining “abuse” for purposes of Fam. Code ch. 261); *see also* Penal Code § 22.04(c) (defining “child” for purposes of injury to a child as a person 14 years of age or younger). Based on your representations and our review, we agree the information pertaining to service number 0016151-Y is within the scope of section 261.201 of the Family Code. You have not indicated the department has adopted a rule that governs the release of this type of information; therefore, we assume no such regulation exists. Given that assumption, the department must withhold the investigation records pertaining to service number 0016151-Y under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.³ *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

In summary, the department must withhold the investigation records pertaining to service number 0016108-Y under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code and the investigation records pertaining to service number 0016151-Y under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/eeg

³As our ruling is dispositive, we need not address your remaining arguments against disclosure for this information.

Ref: ID# 414207

Enc. Submitted documents

c: Requestor
(w/o enclosures)