



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 7, 2009

Ms. Sylvia McClellan  
Assistant City Attorney  
Criminal Law and Police Section  
1400 South Lamar  
Dallas, Texas 75215

OR2009-09342

Dear Ms. McClellan:

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# 348216 (DPD ORR 2009-3160).

The Dallas Police Department (the "department") received a request for three specified police reports. 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, 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 that report 0897648-P consists of a report of alleged or suspected child abuse made under chapter 261. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of section 261.201); *id.* § 101.003(a) (defining “child” as a person under 18 years of age). Therefore, this report falls within the scope of section 261.201. You have not indicated that the department has adopted a rule governing the release of this type of information. Accordingly, we assume no such rule exists. Given that assumption, we conclude that the department must withhold report 0897648-P under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.<sup>1</sup> *See* Open Records Decision No. 440 at 2 (1986) (construing statutory predecessor to section 261.201). However, you have failed to demonstrate that any portion of the remaining information at issue was used or developed in an investigation of alleged or suspected child abuse or neglect under chapter 261 or contains reports of alleged or suspected abuse or neglect made under chapter 261. Therefore, the department may not withhold any of the remaining information at issue under section 261.201. As you raise no further exceptions to disclosure, the department must release the remaining information at issue.<sup>2</sup>

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](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

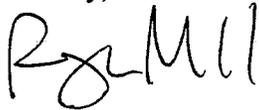
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<sup>1</sup>However, section 261.201(d) of the Family Code provides that “an adult who was the subject of an investigation as a child [is] entitled to examine and make copies of any report, record, working paper, or other information in the possession, custody, or control of the state that pertains to the history of the child. The [Texas Department of Family and Protective Services (“DFPS”)] may edit the documents to protect the identity of the biological parents and any other person whose identity is confidential[.]” Thus, to the extent that DFPS has created a file on this alleged abuse, the requestor may be deemed to be an adult who was the subject of this investigation as a child, and entitled to examine and make copies of any such file.

<sup>2</sup>We note that the remaining information at issue consists of juvenile law enforcement records subject to section 58.007(c) of the Family Code. *See* Fam. Code § 58.007(c). In this instance, the requestor, as parent of the involved juvenile, has a right of access to this information pursuant to section 58.007(e). *See id.* § 58.007(e). However, if the department receives another request for this same information from another requestor, it must request another ruling from this office.

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,

A handwritten signature in black ink, appearing to read "Ryan T. Mitchell". The signature is written in a cursive, somewhat stylized font.

Ryan T. Mitchell  
Assistant Attorney General  
Open Records Division

RTM/rl

Ref: ID# 348216

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)