



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 22, 2009

Mr. David Hamilton
Attorney at Law
3830 Farm Road 195
Paris, Texas 75462-1621

OR2009-13315

Dear Mr. Hamilton:

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# 357555.

The City of Reno and the Reno Police Department (collectively the "city"), which you represent, each received a request for information pertaining to a vehicle-pedestrian accident on a certain date. You state you have released some information to one of the requestors. We understand you to claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code.¹ 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."² Gov't Code § 552.101. Section 552.101 encompasses section 261.201(a) of the Family Code, which provides as follows:

¹ Based on your statement "[t]he incident is still under investigation" we understand you to raise section 552.108(a)(1) of the Government Code, as section 552.108(a)(1) is the proper exception for the substance of your argument.

² The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

(a) Except as provided by Section 261.203, 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.

Act of May 28, 2007, 80th Leg., R.S., ch. 263, § 12, 2007 Tex. Gen. Laws 421, 428, amended by Act of June 1, 2009, 81st Leg., R.S., S.B. 1050, § 1 (to be codified as an amendment of Fam. Code § 261.201(a)). We note that the submitted information was used or developed in an investigation into alleged child abuse or neglect. See Fam. Code § 261.001(1) (defining “abuse” and “neglect” for purposes of Family Code ch. 261); see also *id.* § 101.003(a) (defining “child” for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). Based on our review, we find that the submitted information is subject to section 261.201 of the Family Code. As we have no indication the city has adopted a rule that governs the release of this type of information, we assume that no such rule exists. Given that assumption, we conclude that the city must withhold the submitted information in its entirety 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) (addressing predecessor statute).

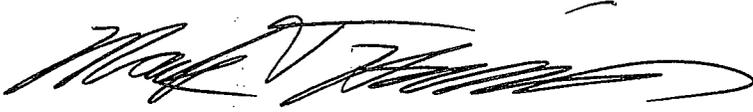
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

³As our ruling is dispositive, we need not address your argument against disclosure.

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,

A handwritten signature in black ink, appearing to read 'Mack T. Harrison', with a large, sweeping flourish at the end.

Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/eeg

Ref: ID# 357555

Enc. Submitted documents

c: Requestor
(w/o enclosures)