



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 25, 2009

Mr. Paul F. Wieneskie
Attorney at Law
204 South Mesquite
Arlington, Texas 76010

OR2009-13545

Dear Mr. Wieneskie:

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# 358642.

The Euless Police Department (the "department"), which you represent, received a request for all documents concerning a specific individual in an aggravated sexual assault case, a kidnapping case, an assault case, criminal trespass warnings or restraining orders, and traffic arrests. 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.

Initially, you state a portion of the requested information was subject of previous rulings issued by this office, Open Records Letter Nos. 2002-3759 (2002) and 2001-0820 (2001). You have not indicated the facts or circumstances have changed since the issuance of these prior rulings. Thus, with regard to the requested information that is identical to the information previously requested and ruled on by this office, we conclude the department must continue to rely on our rulings in Open Records Letter Nos. 2002-3759 and 2001-0820 as previous determinations and withhold the information at issue in accordance with those rulings. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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(a) of the Family Code, which provides as follows:¹

(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). The submitted information was used or developed in investigations 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 of the information at issue, we conclude that the submitted information is subject to section 261.201 of the Family Code. As you do not indicate that the department 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 department 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.² *See* Open Records Decision No. 440 at 2 (1986) (addressing predecessor statute).

¹ The 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).

² As our ruling is dispositive, we need not address your argument 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,



Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/eeg

Ref: ID# 358642

Enc. Submitted documents

c: Requestor
(w/o enclosures)