



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 30, 2009

Ms. Rebecca H. Brewer  
Abernathy Roeder Boyd & Joplin, P.C.  
P.O. Box 1210  
McKinney, Texas 75070-1210

OR2009-16785

Dear Ms. Brewer:

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# 362450.

The Wylie Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident. You claim that the requested 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." Section 552.101 encompasses section 261.201 of the Family Code, which provides in relevant 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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the department or the Texas Youth Commission, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

Fam. Code § 261.201(a), (k). You state the submitted report was used or developed in an investigation of alleged or suspected child abuse. *See* Fam. Code § 261.001(1)(E) (definition of "child abuse" includes indecency with a child under Penal Code section 21.11). Based on your representation and our review, we agree the submitted information is generally within the scope of section 261.201 of the Family Code.

The requestor is a parent of the child victim listed in the submitted information; however, the requestor is also the individual alleged to have committed the suspected abuse or neglect and, as such, does not have a right of access to the information pursuant to section 261.201(k). *See id.* § 261.201(k). You do not indicate the department has adopted a rule that governs the release of this type of information. We therefore assume no such rule exists. Given that assumption, we conclude the submitted information is confidential under section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). Thus, we agree the department must withhold the submitted information under section 552.101 in conjunction with section 261.201 of the Family Code.<sup>1</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,

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<sup>1</sup>As our ruling is dispositive, we do not address your other arguments to withhold this information.

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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/cc

Ref: ID# 362450

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)