



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 8, 2009

Mr. B. Chase Griffith
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2009-17298

Dear Mr. Griffith:

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# 363656.

The McKinney Police Department (the "department"), which you represent, received a request for any reports related to a named individual, including those related to a specified August 31, 2009 arrest. You claim the submitted records are excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions 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. This exception encompasses information protected by other statutes, such as section 261.201 of the Family Code, which provides in relevant part:

(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.

Fam. Code § 261.201(a). You represent the police records at issue were developed in an investigation of alleged child abuse by the department; therefore, these records are within the scope of section 261.201 of the Family Code. *See id.* § 261.001(1)(E) (definition of "abuse" for purposes of Family Code chapter 261 includes aggravated sexual assault under Penal Code section 22.021 and indecency with a child under Penal Code section 21.11). You do not inform us, and we are not aware, that the department has adopted a rule that governs the release of this type of information; therefore we assume no such rule exists. We note that the requestor is a representative of the Texas Board of Nursing. However, the requestor does not identify any specific statutory provision that would provide her a right of access to the submitted records. We therefore conclude the submitted information is confidential pursuant to section 261.201 of the Family Code, and the department must withhold the submitted records in their entirety under section 552.101 of the Government Code. *See* Open Records Decision No. 440 at 2 (1986) (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 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,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/cc

Ref: ID# 363656

Enc. Submitted documents

cc: Requestor
(w/o enclosures)