



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 13, 2010

Mr. Robert E. Hager  
Nichols, Jackson, Dillard, Hager & Smith L.L.P.  
1800 Lincoln Plaza  
500 North Akard  
Dallas, Texas 75201

OR2010-06852

Dear Mr. Hager:

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# 379226.

The Rowlett Police Department (the "department"), which you represent, received a request for information pertaining to a specified service number. You claim the submitted information is 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.

Initially, we note that it appears the present request for information is, in part, a standing request. It also appears the requestor is asking the department to obtain certain information from the Child Protective Services Division of the Texas Department of Family and Protective Services. It is implicit in several provisions of the Act that the Act applies only to information already in existence at the time a request is received by a governmental body. *See* Gov't Code §§ 552.002, .021, .227, .351. The Act does not require a governmental body to prepare new information in response to a request. *See* Attorney General Opinion H-90 (1973); *see also* Open Records Decision Nos. 572 at 1 (1990), 555 at 1-2 (1990), 452 at 2-3 (1986), 87 (1975). Consequently, a governmental body is not required to comply with a standing request to supply information on a periodic basis as such information is prepared in the future. *See* Attorney General Opinion JM-48 at 2 (1983); *see also* Open Records Decision Nos. 476 at 1 (1987), 465 at 1 (1987). Moreover, the Act does not ordinarily require a governmental body to obtain information not in its possession, Open Records

Decision Nos. 558 (1990), 518 (1989), 499 (1988), to obtain information from another entity that does not hold the information on behalf of the governmental body, Open Records Decision No. 534 (1989), or to obtain new information in order to comply with a request, Open Records Decision No. 561 (1990). Thus, the only information encompassed by this request consists of documents the department maintained or had a right of access to as of the date it received the instant request for information, and the department is not required to release any additional information in response to the request.

Next, we address your comment that some of the language in the written request for information is unclear. Specifically, you state that you are unclear as to what information the requestor is seeking.<sup>1</sup> A governmental body is required to make a good-faith effort to relate a request to information that it holds. *See* ORD 561 at 8. Based on our review, we find that the department has made a good-faith effort to relate the request to information that the department maintains. Accordingly, we will address your arguments against disclosure of the submitted information.

Section 552.101 of the Government Code exempts 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 information protected by other statutes, such as section 261.201 of the Family Code. Section 261.201 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). Upon review, we agree the submitted information relates to an investigation of alleged child abuse. *See id.* § 261.001(1) (defining "abuse" for purposes of chapter 261 of the Family Code); *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). You do not inform us

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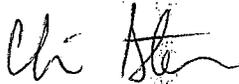
<sup>1</sup>We note that the Act permits a governmental body to seek clarification from a requestor. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

whether the department has adopted a rule that governs the release of this type of information. Therefore, we assume no such rule exists. Given this assumption, we find the submitted information is confidential under section 261.201(a) of the Family Code and must be withheld under section 552.101 of the Government Code. See Open Records Decision No. 440 at 2 (1986) (construing statutory predecessor to section 261.201). As our ruling is dispositive, we need not address your remaining 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](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,



Christopher D. Sterner  
Assistant Attorney General  
Open Records Division

CDSA/eeg

Ref: ID# 379226

Enc. Submitted documents

c: Requestor  
(w/o enclosures)