ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 20, 2010

Mr. Gregory A. Alicie
Open Records Specialist
Baytown Police Department
3200 North Main Street
Baytown, Texas 77521

OR2010-14239

Dear Mr. Alicie:

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# 393958.

The Baytown Police Department (the "department") received a request for report number 2009-51137. 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.

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 section encompasses information protected by other statutes, such as section 261.201 of the Family Code, which provides:

> (a) [T]he 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.
>
> . . .
>
> (k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Department of Family and Protective Services] 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.

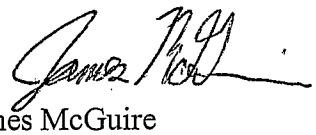
Fam. Code § 261.201(a), (k). You state the submitted report, which involves an alleged act of indecency with a child, is subject to section 261.201(a) of the Family Code. *See id.* § 261.001(1)(E) (definition of "child abuse" includes indecency with a child under Penal Code section 21.11); *see also* Penal Code § 21.11(a) (defining "child" for purposes of section 21.11 as a minor younger than 17 years of age). Upon review, we agree the submitted report falls within the scope of section 261.201. We note information may not be withheld on the basis of section 261.201(a) from a parent of a child who was the victim of alleged or suspected abuse or neglect, unless the parent is alleged to have committed the abuse. *See id.* § 261.201(k). In this instance, although the requestor is the father of the child listed as the victim in the submitted report, he is alleged to have committed the abuse. Accordingly, we conclude the submitted report is confidential and must be withheld in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (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

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 McGuire
Assistant Attorney General
Open Records Division

JM/dls

Ref: ID# 393958

Enc. Submitted documents

c: Requestor
(w/o enclosures)