



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 7, 2013

Mr. John R. Batoon
Assistant City Attorney
Office of the City Attorney
City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890

OR2013-13665

Dear Mr. Batoon:

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# 495639.

The El Paso Police Department (the "department") received two requests for case number 13-112117. You claim 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. Section 552.101 encompasses section 261.201 of the Family Code, which provides 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 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.

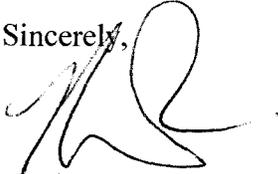
Fam. Code § 261.201(a), (k). Upon review, we agree the submitted information was used or developed in an investigation of alleged or suspected child abuse under chapter 261 of the Family Code, so as to fall within the scope of section 261.201(a). *See id.* §§ 101.003(a) (defining “child” for purposes 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), 261.001 (1) (defining “abuse” for purposes of chapter 261 of the Family Code). In this instance, the submitted information reflects the first requestor is the mother of the alleged child victim and the second requestor is the father of the alleged child victim listed in the information at issue. However, the information reflects the father is alleged to have committed the abuse. Therefore, the submitted information may not be provided to the second requestor pursuant to section 261.201(k). *See id.* § 261.201(k). Accordingly, the submitted information must be withheld from the second requestor under section 552.101 of the Government Code in conjunction with section 261.201(k) of the Family Code. However, we note the mother is not alleged to have committed the alleged or suspected abuse. Thus, in this instance, the department may not use section 261.201(a) to withhold the submitted information from the first requestor. *Id.* As you raise no other exceptions to disclosure, the submitted information must be released to the first requestor.

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,

A handwritten signature in black ink, appearing to read 'NK', with a large, stylized flourish extending from the end.

Nneka Kanu
Assistant Attorney General
Open Records Division

NK/bhf

Ref: ID# 495639

Enc. Submitted documents

c: Requestor
(w/o enclosures)