



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 28, 2014

Ms. Cara Leahy White  
Counsel for the Town of Flower Mound  
Taylor Olson Adkins Sralla Elam, LLP  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107

OR2014-19343

Dear Ms. White:

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# 540947.

The Town of Flower Mound (the "town"), which you represent, received a request for records of all reports pertaining to the requestor. You claim some of 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 exception encompasses information made confidential 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.

...

(k) Notwithstanding Subsection (a), an investigating agency . . . 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.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

...

(2) any information that is excepted from required disclosure under [the Act], or other law[.]

Fam. Code § 261.201(a), (k), (l)(2). You inform us the submitted information contains references to records that were used or developed in investigations of alleged or suspected 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 disabilities of minority removed for general purposes). The submitted information reveals the separate investigations at issue were conducted by the town’s police department (the “department”), other police departments, and the Child Protective Services Division of the Texas Department of Family and Protective Services (“CPS”). Based on your representation and our review, we find the references to separate child abuse investigations at issue are subject to section 261.201(a) of the Family Code. We note section 261.201(k) states the investigating agency must release information subject to section 261.201(a) to a parent of the child who was the subject of the alleged or suspected abuse or neglect, unless this person is alleged to have committed the abuse or neglect. *See id.* § 261.201(k). We note the requestor is the mother of the child victims at issue.

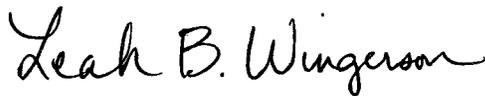
In this instance, section 261.201(k) is not applicable to the references regarding investigations conducted by CPS or police departments other than the department because the department is not the investigating agency. Thus, the town must withhold those references, which we have marked, under section 552.101 of the Government Code in

conjunction with section 261.201(a) of the Family Code. However, with regard to the references pertaining to investigations conducted by the department, the requestor is a parent of the child victims noted in those investigation references, and the requestor is not suspected of having committed the alleged or suspected abuse. Accordingly, the town may not use section 261.201(a) to withhold that information from this requestor. *Id.* For the remaining investigation references, which we have marked, it is unclear which agency or agencies conducted the investigations. Therefore, to the extent the remaining references we have marked pertain to investigations conducted by CPS or police departments other than the department, the town must withhold these references under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. However, to the extent the marked references pertain to investigations conducted by the department, the town may not use section 261.201(a) to withhold the information from this requestor. *Id.* As you have not asserted any additional exceptions to disclosure, the town must release the information pertaining to investigations conducted by the department, as well as the remaining submitted information.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/eb

Ref: ID# 540947

Enc. Submitted documents

c: Requestor  
(w/o enclosures)