



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 2, 2014

Ms. Amanda Pell
Open Records Specialist
Baytown Police Department
3200 North Main Street
Baytown, Texas 77521

OR2014-21727

Dear Ms. Pell:

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# 545159 (Baytown PIR #3309).

The Baytown Police Department (the "department") received a request for a specified police report, as well as the requestor's lie detector results. 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 "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information made confidential by 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.

Fam. Code § 261.201(a), (k). You assert the submitted information was used or developed in an investigation of alleged child abuse or neglect. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Fam. Code ch. 261); *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). Based on your representations and our review, we find the submitted information is within the scope of section 261.201(a) of the Family Code. In this instance, although the requestor is a parent of the child victim, the requestor is also suspected of having committed the alleged abuse or neglect. As a result, the submitted information may not be provided to the requestor pursuant to section 261.201(k). *Id.* § 261.201(k) (stating child’s parent may not obtain information subject to section 261.201(a) concerning reported abuse or neglect of child if parent is alleged to have committed abuse or neglect). However, section 261.201(a) of the Family Code also provides information encompassed by that section may be disclosed “for purposes consistent with [the Family Code] and applicable federal or state law[.]” *Id.* § 261.201(a).

The submitted information includes information obtained from a polygraph examination, access to which is governed by section 1703.306 of the Occupations Code. Section 1703.306 constitutes “applicable state law” for purposes of section 261.201(a). Section 1703.306(a)(1) provides as follows:

A polygraph examiner, trainee, or employee of a polygraph examiner, or a person for whom a polygraph examination is conducted or an employee of the person, may not disclose information acquired from a polygraph examination to another person other than:

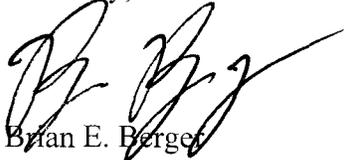
(1) the examinee or any other person specifically designated in writing by the examinee[.]

Occ. Code § 1703.306(a)(1). In this instance, the requestor is the polygraph examinee. Thus, if the department determines disclosure of the polygraph information is consistent with chapter 261 of the Family Code, then the department may release the requestor's polygraph information pursuant to section 1703.306(a)(1) and must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. *See* Open Records Decision No. 481 at 9 (1987) (predecessor to section 1703.306 permits, but does not require, examination results to be disclosed to examinees). However, if the department determines disclosure of the polygraph information is not consistent with chapter 261 of the Family Code, then the department may not provide the polygraph information to the requestor, but instead must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

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, 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,



Bryan E. Berger
Assistant Attorney General
Open Records Division

BB/ac

Ref: ID# 545159

Enc. Submitted documents

c: Requestor
(w/o enclosures)