



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 6, 2015

Mr. Tillman S. Roots
Assistant District Attorney - Civil Division
Criminal District Attorney's Office
Comal County
150 North Seguin Avenue, Suite 307
New Braunfels, Texas 78130

OR2015-08776

Dear Mr. Roots:

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# 568526 (CCSO File No. 15OR-029).

The Comal County Sheriff's Office (the "sheriff's office"), which you represent, received a request for all reports involving a named individual during a specified time period. You state the sheriff's office has released some of the requested information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exceptions 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."¹ Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 261.201 of the Family Code, which provides, in part, as follows:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. See Open Records Decision Nos. 481 (1987), 480 (1987), 470(1987).

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). We note the submitted report was used or developed in an investigation of alleged or suspected child abuse or neglect. *See id.* §§ 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining “child” for purposes of chapter 261 of Family Code). Accordingly, we find this information is confidential under section 261.201(a) of the Family Code.

We note the requestor may be the authorized representative of one of the parents of the child victim involved in the incident. We note that parent is not alleged to have committed the abuse or neglect. As such, this requestor may have a right of access to the information at issue pursuant to section 261.201(k). *Id.* § 261.201(k). Thus, if the requestor is not the authorized representative of the parent of the child victim involved in the incident, then the information at issue must be withheld in its entirety from the requestor under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. On the other hand, if the requestor is the authorized representative of the parent of the child victim, then the sheriff’s office may not use section 261.201(a) to withhold this information from the requestor. *Id.* § 261.201(k). In that case, the sheriff’s office must release the submitted information to this 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.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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 568526

Enc. Submitted documents

c: Requestor
(w/o enclosures)