



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 23, 2009

Mr. Kenneth W. Findley
Acting Chief of Police
City of Deer Park
P.O. Box 700
Deer Park, Texas 77536-0700

OR2009-02355

Dear Mr. Findley:

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# 335632 (Public Information Request # 183).

The Deer Park Police Department (the "department") received a request for two specified police reports. You state that you have released one of the requested reports. You claim that the remaining report is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the submitted information contains a portion of the report which you state you have already released to the requestor. As you raise no exceptions for this report in your brief and the information at issue does not contain any information subject to mandatory exceptions, the department must release this information at this time. *See* Gov't Code § 552.007.

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 that other statutes make confidential. You raise section 552.101 in conjunction with section 261.201 of the Family Code. Section 261.201(a) provides as follows:

(a) The 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.

Fam. Code § 261.201(a); *see id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Fam. Code ch. 261). The remaining submitted information consists of files, reports, records, communications, or working papers used or developed in an investigation under chapter 261; therefore, this information is confidential and not subject to public release under the Act.¹ *See id.* Because you have not indicated that the department has adopted a rule that governs the release of this type of information, we assume no such regulation exists. Given that assumption, the remaining submitted information must be withheld under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.²

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

¹We note that a parent of the children who are the subject of reported abuse or neglect may have a right of access to certain abuse and neglect records maintained by the Texas Department of Family and Protective Services (“DFPS”). Section 261.201(g) of the Family Code provides that DFPS, upon request and subject to its own rules: shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect information concerning the reported abuse or neglect that would otherwise be confidential under this section if DFPS has edited the information to protect the confidentiality of the identity of the person who made the report and any other person whose life or safety may be endangered by the disclosure. Fam. Code. § 261.201(g).

²As our ruling is dispositive, we need not address your remaining argument against disclosure.

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,

A handwritten signature in cursive script that reads "Jonathan Miles". The signature is written in black ink and is positioned above the printed name.

Jonathan Miles
Assistant Attorney General
Open Records Division

JM/cc

Ref: ID# 335632

Enc. Submitted documents

c: Requestor
(w/o enclosures)