



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 4, 2009

Ms. S. McClellan
Assistant City Attorney
Criminal Law and Police Section
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2009-02856

Dear Ms. McClellan:

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# 336794 (DPD ID# 2008-8859).

The Dallas Police Department (the "department") received a request for information pertaining to two specified incidents. You claim that 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 section encompasses information protected by other statutes. Section 261.201(a) of the Family Code provides as follows:

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, 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). You represent that the submitted information consists of reports used or developed in an investigation under chapter 261. We find that the reports numbered 0375689-V and 0375690-V do involve an investigation of child neglect or abuse. Therefore, this information is within the scope of section 261.201 of the Family Code. *See id.* §§ 101.003(a) (defining “child” for purposes of section 261.201 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 (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). You do not inform us that the department has adopted a rule that governs the release of this type of information. Therefore, we will assume no such rule exists. Based on your representation and our review, we conclude that reports 0375689-V and 0375690-V are confidential pursuant to section 261.201 of the Family Code, and that the department must withhold them under section 552.101 of the Government Code.¹ However, we find that report number 0321155-V pertains to an incident that did not involve child abuse or neglect; therefore, section 261.201 does not apply to that report. Since you claim no further exceptions for that information, it must be released.

In summary, the department must withhold report numbers 0375689-V and 0375690-V pursuant to section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The department must release report number 0321155-V.

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

¹We note that the requestor, as a parent of children who are the subjects 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).

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 black ink that reads "Karen Stack". The signature is written in a cursive, flowing style.

Karen E. Stack
Assistant Attorney General
Open Records Division

KES/sdk

Ref: ID# 336794

Enc. Submitted documents

c: Requestor
(w/o enclosures)