



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 9, 2009

Mr. B. Chase Griffith  
Brown & Hofmeister, L.L.P.  
Attorney for City of McKinney  
740 East Campbell Road, Suite 800  
Richardson, Texas 75081

OR2009-04714

Dear Mr. Griffith:

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# 339612.

The McKinney Police Department (the "department"), which you represent, received a request for three specified incident reports. You claim the requested information 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 you have only submitted one of the requested incident reports for our review. To the extent any additional responsive information existed on the date the department received this request, we assume you have released it to the requestor. If you have not released any such records, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

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. Section 552.101 encompasses section 261.201 of the Family Code, which provides in relevant part:

(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:

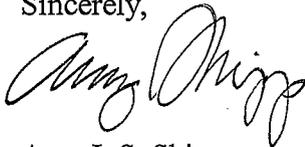
- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). Upon review, we find the submitted information involves allegations of sexual assault of a child. *See id.* § 261.001(1), (4) (defining “child abuse” and “neglect” for purposes of section 261.201); *id.* § 101.003(a) (defining “child” as a person under 18 years of age). Thus, this report falls within the scope of section 261.201 of the Family Code. You have not indicated that the department has adopted a rule governing the release of this type of information. Therefore, we conclude that the submitted information is confidential under section 261.201 of the Family Code and must be withheld in its entirety under section 552.101 of the Government Code. *See* Open Records Decision No. 440 at 2 (1986) (construing predecessor statute). As our ruling is dispositive, we do not address your arguments against disclosure.

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

Sincerely,



Amy L.S. Shipp  
Assistant Attorney General  
Open Records Division

ALS/rl

Ref: ID# 339612

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)