



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 27, 2009

Ms. Lillian Guillen Graham
Assistant City Attorney
Office of the City Attorney
P.O. Box 850137
Mesquite, Texas 75185-0137

OR2009-07190

Dear Ms. Graham:

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# 344161.

The Mesquite Police Department (the "department") received a request for a specific incident report. 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. 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

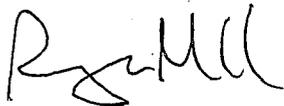
used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). Upon review, we find that the submitted information consists of a report used or developed in an investigation under chapter 261. *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). Therefore, this report falls within the scope of section 261.201. You have not indicated that the department has adopted a rule governing the release of this type of information. Accordingly, we assume that no such rule exists. Given that assumption, we conclude that the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (construing predecessor to section 261.201).¹

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

Sincerely,



Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/cc

¹You inquire whether the requestor, as mother of the alleged victim, has a right of access to the submitted report under section 552.023 of the Government Code. Section 552.023 provides that a person or person’s authorized representative has a special right of access to information protected from public disclosure by laws intended to protect that person’s privacy interests. *See* Gov’t Code 552.023. We note, however, that section 261.201 has its own release provisions that govern release of information made confidential by section 261.201(a). Thus, the department may disclose the requested report only in accordance with these release provisions. *See* Fam. Code § 261.201(b)-(g). The only such provision that directly relates to parental access is section 261.201(g), which provides that, if the investigation underlying the submitted information has been referred to the Department of Family and Protective Services (“DFPS”), a parent or other legal representative of the involved child may be entitled to access to DFPS’s records. *See* Fam. Code § 261.201(g).

Ref: ID# 344161

Enc. Submitted documents

cc: Requestor
(w/o enclosures)