



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 12, 2009

Mr. Jeffrey L. Moore
Brown & Holfmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2009-08141

Dear Mr. Moore:

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# 345775.

The Roanoke Police Department (the "department"), which you represent, received two requests from different requestors for information relating to a specified incident. You claim that the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the submitted information, which we have marked, is not responsive to this request because it does not pertain to the specified incident. This ruling does not address the public availability of non-responsive information, and the department is not required to release non-responsive information in response to this request. Accordingly, we will consider your arguments with regard to the responsive 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. Section 552.101 encompasses section 261.201 of the Family Code, which provides in 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:

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

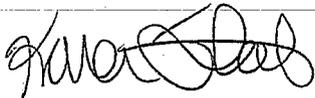
- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation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

Fam. Code § 261.201(a). We find that the responsive information was used or developed in a Chapter 261 investigation. 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 indicate that the department has adopted a rule that governs the release of this type of information. Upon review, we conclude the responsive information is confidential pursuant to section 261.201 of the Family Code, and that the department must withhold it under section 552.101 of the Government 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 information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Karen E. Stack
Assistant Attorney General
Open Records Division

KES/jb

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

Ref: ID# 345775

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)