



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 9, 2009

Mr. Tom Rugg  
First Assistant, Civil Division  
Jefferson County District Attorney  
1001 Pearl Street, 3<sup>rd</sup> Floor  
Beaumont, Texas 77701

OR2009-09475

Dear Mr. Rugg:

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# 349173.

Jefferson County (the "county") received a request for three categories of information pertaining to cause numbers 99066 and 99067. You state the county does not have the requested Garth House report in its files. See Gov't Code § 552.002(a); *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed) (Act only applies to information governmental body maintains or has a right of access to as of the date request is received); Open Records Decision Nos. 605 at 2 (1992), 476 at 1 (1987), 452 at 3 (1986), 362 at 2 (1983). 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, 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). You indicate the submitted information consists of records used or developed in an investigation of abuse conducted by Child Protective Services ("CPS") under chapter 261; therefore, we conclude this information is within the scope of section 261.201 of the Family Code. *See id.* § 261.001(1) (defining "abuse" for purposes of chapter 261 Family Code). You do not inform us, and we are not aware, that CPS has adopted a rule governing the release of this type of information under these circumstances; therefore we assume no such rule exists. Given that assumption, we conclude that the submitted information is confidential pursuant to section 261.201 of the Family Code, and the county must withhold it in its entirety under section 552.101 of the Government Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

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,



Bob Davis  
Assistant Attorney General  
Open Records Division

RSD/cc

Ref: ID# 349173

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)