



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 21, 2009

Ms. Yvette Aguilar
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2009-11770

Dear Ms. Aguilar:

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# 353293.

The Corpus Christi Police Department (the "department") received a request for photographs pertaining to a specified incident. You claim that the submitted 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.

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. You raise section 552.101 in conjunction with section 261.201(a) 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). You state that information at issue was used or developed in an investigation of alleged injury to a child. *See id.* §§ 261.001(1) (defining “abuse” for the purposes of chapter 261 of the Family Code). Based on your representation and our review, we find this information is within the scope of section 261.201. You have not indicated that the department has adopted a rule that governs the release of this type of information; therefore, we assume that no such regulation exists. The submitted information is thus generally confidential under section 261.201.

We note that section 261.201 provides that information encompassed by subsection (a) may be released to certain persons and entities under limited circumstances. *See id.* § 261.201. The department received the present request for information from a Court Appointed Special Advocate appointed by the Nueces County Court as guardian ad litem of the minor child involved in the requested information. However, the requestor does not fall within any category of persons or entities authorized by section 261.201 to receive this ordinarily confidential information. *See id.* § 261.201(b)-(g) (listing entities that are authorized to receive 261.201 information). Accordingly, the submitted information is confidential under section 261.201 of the Family Code and the department must withhold this information under section 552.101 of the Government Code.¹ As our ruling is dispositive, we need not address your remaining argument 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, 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

¹We note 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 a child who is a requestor may be entitled to access to DFPS’s records. *See* Fam. Code § 261.201(g).

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

Sincerely,



Adam Leiber
Assistant Attorney General
Open Records Division

ACL/rl

Ref: ID# 353293

Enc. Submitted documents

c: Requestor
(w/o enclosures)