



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 14, 2010

Mr. Matthew C.G. Boyle
Assistant City Attorney
Boyle & Lowry, L.L.P.
4201 Wingren, Suite 108
Irving, Texas 75062-2763

OR2010-00748

Dear Mr. Boyle:

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# 367228.

The Keller Police Department (the "department"), which you represent, received nine requests from the same requestor for all statements, witness interviews, field sketches, field notes, measurements, diagrams, notes, witness names and addresses, photographs, CDs, videotapes, audio tapes, reports, accident reports, supplements, and any other material obtained or developed in relation to the arrests of nine named individuals.¹ You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

¹Although the requests refer to the "arrest" of each named individual, only one of the named individuals has been arrested. The other eight named individuals are victims or witnesses of the incidents that resulted in the arrest.

²Although you failed to timely raise section 552.130 of the Government Code, this provision constitutes a compelling reason to withhold information, and we will consider your argument under this exception. *See* Gov't Code §§ 552.301, .302.

Gov't Code § 552.101. This exception encompasses information that other statutes make confidential such as section 261.201(a) of the Family Code, which provides in pertinent part:

(a) [T]he 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).³ Upon review, we find that the submitted information consists of information used or developed in an investigation under chapter 261. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of section 261.201); *id.* § 101.003(a) (defining “child” for purposes of this section 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). Therefore, this information 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 no such rule exists. Given that assumption, we conclude that the department must withhold the submitted information in its entirety 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 statutory predecessor to section 261.201). We note that basic information is not released when information is being withheld in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. As our ruling is dispositive, we need not address your remaining arguments against disclosure.

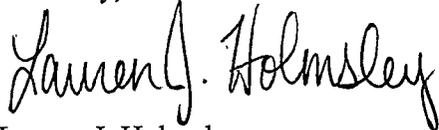
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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,

³The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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, toll free at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Lauren J. Holmsley". The signature is written in a cursive style with a large initial "L".

Lauren J. Holmsley
Assistant Attorney General
Open Records Division

LJH/jb

Ref: ID# 367228

Enc. Submitted documents

c: Requestor
(w/o enclosures)