



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 23, 2010

Ms. Yvette Aguilar
Assistant City Attorney
City of Corpus Christi
321 John Sartain
Corpus Christi, Texas 78401

OR2010-04044

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# 374473.

The Corpus Christi Police Department (the "department") received a request for a specified incident report. You claim some of the requested information is excepted from disclosure under section 552.101 of the Government Code.¹ 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 as follows:

(a) Except as provided by Section 261.203, the following information is confidential, is not subject to public release under [the Act] 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

¹You state that the department withdraws its previously asserted claim under section 552.108 of the Government Code.

(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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Department of Family and Protective Services] or the Texas Youth Commission, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

(1) any personally identifiable information about a victim or witness under 18 years of age unless that victim or witness is:

(A) the child who is the subject of the report;

or

(B) another child of the parent, managing conservator, or other legal representative requesting the information;

(2) any information that is excepted from required disclosure under [the Act], or other law; and

(3) the identity of the person who made the report.

Fam. Code § 261.201(a), (k), (l). You assert that the submitted report pertains to an investigation of alleged or suspected neglect of children. *See id.* § 261.001(1) (defining “neglect” for the purposes of chapter 261 of the Family Code); *see also 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). You state this matter was referred to the Child Protective Services Division of the Texas Department of Family and Protective Services (“CPS”) and is being used by CPS

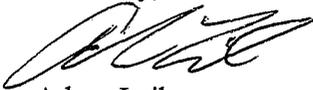
in their investigation. Based on your representations and our review, we find the submitted report is generally confidential under section 261.201 of the Family Code. However, as you acknowledge, the requestor is the parent of some of the child victims listed in the report, and the requestor is not alleged to have committed the suspected neglect. In this instance, section 261.201(a) may not be used to withhold the submitted report from this requestor. *Id.* § 261.201(k).

We note, and you acknowledge, that section 261.201(l) also provides that before a parent can copy and inspect a record of a child under section 261.201(k), any personally identifiable information about a victim or witness under 18 years of age who is not the parent's child and the identity of the party who made the report must be redacted. *Id.* § 261.201(l)(1), (3). You have marked the information you seek to withhold under sections 261.201(l)(1) and 261.201(l)(3). Upon review, we agree some of the information you have marked is identifying. However, you have not demonstrated that the remaining information you have marked is identifying. Accordingly, the department must withhold the personally identifiable information of any child victim who is not the requestor's child and the reporting party's identity, which we have marked, under section 552.101 in conjunction with sections 261.201(l)(1) and 261.201(l)(3) of the Family Code. The remaining information must be released to this requestor.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, toll free, at (888) 672-6787.

Sincerely,



Adam Leiber
Assistant Attorney General
Open Records Division

ACL/rl

²We note the information being released contains confidential information regarding some of the alleged child victims to which the requestor has a right of access. *See* Fam. Code § 261.201(k). If the department receives another request for this particular information from a different requestor, then the department should again seek a decision from this office.

Ref: ID# 374473

Enc. Submitted documents

c: Requestor
(w/o enclosures)