



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 20, 2010

Ms. Angela M. DeLuca
Assistant City Attorney
City of Bryan
P.O. Box 1000
Bryan, Texas 77805

OR2010-05649

Dear Ms. DeLuca:

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# 377665.

The Bryan Police Department (the "department") received a request for information pertaining to report number 10-02-00-064. You state that some responsive information has been released to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.103 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."¹ Gov't Code § 552.101. This section encompasses information protected by other statutes, including section 261.201 of the Family Code, which provides as follows:

- (a) [T]he following information is confidential, is not subject to public release under [the Act], and may be disclosed only for purposes consistent

¹The Office of the Attorney General will raise a mandatory exception like section 552.101 on behalf of a governmental body. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [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.

Fam. Code § 261.201(a), (k). Upon review, we find that the submitted information consists of files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in providing services as a result of an investigation under chapter 261; therefore, the information is generally within the scope of section 261.201 of the Family Code. *Id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Fam. Code ch. 261); *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).

In this instance, the requestor is the parent of the child victim listed in the submitted information; however, the submitted information reflects that the requestor is also the individual suspected of child abuse or neglect. Accordingly, the requestor does not have a right of access to the information pursuant to section 261.201(k). *See id.* § 261.201(k).

You do not indicate that the department has adopted a rule that governs the release of this type of information. We therefore assume no such rule exists. Given that assumption, we conclude the submitted information is confidential under section 261.201 of the Family Code

and must be withheld under section 552.101 of the Government Code. *See* Open Records Decision No. 440 at 2 (1986) (construing statutory predecessor to section 261.201).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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 377665

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²As our ruling is dispositive, we do not address your arguments.