



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 1, 2010

Ms. Kathy Allen
Records Supervisor
Burleson Police Department
225 West Renfro
Burleson, Texas 76028

OR2010-09728

Dear Ms. Allen:

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# 385274.

The City of Burleson (the "city") received a request for all records relating to three named individuals during a specified time period. You state you have released some information to the requestor. You claim 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. Section 552.101 encompasses section 261.201 of the Family Code, which provides in part:

- (a) [T]he 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

(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 inform us the submitted information pertains to an offense of indecency with a child. Upon review, we find the submitted information was used or developed in an investigation of alleged or suspected child abuse. *See* Fam. Code § 261.001(1)(E) (definition of child abuse includes indecency with a child under Penal Code § 21.11); *see also* Penal Code § 21.11(a) (defining “child” for purposes of Penal Code § 21.11). We therefore conclude the submitted information is confidential under section 261.201 of the Family Code. You have not indicated the city has adopted a rule that governs the release of this type of information; therefore, we assume that no such regulation exists. Given that assumption, we conclude the submitted information is confidential pursuant to section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). Accordingly, the city must withhold the submitted information in its entirety under section 552.101 of the Government Code.

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,



Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/sdk

Ref: ID# 385274

Enc. Submitted documents

c: Requestor
(w/o enclosures)
