



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 6, 2010

Ms. Cathy Cunningham
Boyle & Lowry, L.L.P.
4201 Wingren, Suite 108
Irving, Texas 75062-2763

OR2010-09908

Dear Ms. Cunningham:

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# 385478.

The City of Hurst and the Hurst Police Department (collectively the "city"), which you represent, each received a request for information pertaining to a specified incident. You state that the city has released or will release some of the requested information, including a portion of the submitted information.¹ You claim that the remaining submitted information is excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. You state that the city notified the Child Protective Services Division of the Texas Department of Family and Protective Services ("DFPS") of its right to submit arguments to this office as to why the requested information should not be released.² See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the exceptions you claim and reviewed the submitted information.

¹By letter dated June 2, 2010, you inform this office you are withdrawing your request for a ruling with respect to the records of the Hurst Fire Department, which you indicate will be provided to the requestor. Accordingly, we do not address this information.

²As of the date of this letter, we have not received any arguments on behalf of DFPS.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This exception encompasses information protected by other statutes, such as section 261.201 of the Family Code. Section 261.201(a) provides in relevant 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). We note that the information at issue relates to an investigation of alleged neglect of a child. *See id.* § 261.001(4) (defining "neglect" for 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). We find that this information was used or developed in an investigation under chapter 261 of the Family Code, so as to fall within the scope of section 261.201(a). As you do not indicate that the city has adopted a rule that governs release of this type of information, we assume that no such rule exists. Given that assumption, we conclude that the information at issue is confidential under section 261.201(a) 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) (addressing predecessor statute). As our ruling is dispositive, we need not address your 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, 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,



Christopher D. Sterner
Assistant Attorney General
Open Records Division

CDSA/eeg

Ref: ID# 385478

Enc. Submitted documents

c: Requestor
(w/o enclosures)