



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 7, 2010

Mr. Peter Gruning  
Attorney for the City of Lockhart  
Duvall Gruning & Dietz, PLLC  
112 North LBJ Drive  
San Marcos, Texas 78666

OR2010-09979

Dear Mr. Gruning:

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# 385693.

The Lockhart Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident. You claim the submitted information is excepted from disclosure under sections 552.101 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." 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.

...

(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). You assert the submitted report is excepted from disclosure under section 261.201(a). Upon review, we agree the information at issue consists of files, reports, records, communications, audiotapes, videotapes, or working papers used or developed in an investigation under chapter 261 of the Family Code. *See id.* § 261.001 (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining “child” as a person under eighteen years of age who is not and has not been married and who has not had the disabilities of minority removed for general purposes). Accordingly, section 261.201(a) is applicable. We note information may not be withheld on the basis of section 261.201(a) from a parent, managing conservator, or other legal representative of a child who was the victim of alleged or suspected abuse, unless such individual is alleged to have committed the abuse. *See id.* § 261.201(k). In this instance, it appears the requestor may be the managing conservator or other legal representative of the child victim at issue; however, the requestor is alleged to have committed the alleged abuse. Accordingly, as you inform us the department has not adopted a rule that governs the release of this type of information, the department must withhold the submitted report in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.<sup>1</sup>

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.

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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](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,



Matt Entsminger  
Assistant Attorney General  
Open Records Division

MRE/tp

Ref: ID# 385693

Enc. Submitted documents

c: Requestor  
(w/o enclosures)