



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 19, 2010

Ms. Ylise Janssen
Senior School Law Attorney
Austin Independent School District
1111 West Sixth Street
Austin, Texas 78703

OR2010-12607

Dear Ms. Janssen:

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# 391091.

The Austin Independent School District (the "district") received a request for all records created by a named district police officer concerning the requestor's son. You state the district has made one of the two responsive reports available to the requestor. You claim the other responsive report, which you have submitted, 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. This section encompasses information protected by other statutes. Section 261.201(a) of the Family Code 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 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 . . . 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 represent, and the submitted report reflects, that this report was used or developed in an investigation of child abuse by the Travis County Sheriff's Department (the "sheriff"). *See id.* § 261.001(1) (defining "abuse" for purposes of Fam. Code ch. 261); Penal Code § 22.04(c) (defining "child" for purposes of injury to a child as a person 14 years of age or younger). Accordingly, this report is within the scope of section 261.201(a) of the Family Code. Although the requestor is the father of the listed child victim, subsection 261.201(k) is inapplicable in this instance because the district is not the agency that investigated the abuse. *See* Fam. Code § 261.201(k) (permitting an investigating agency to release information otherwise confidential under subsection 261.201(a) in certain circumstances). Further, the report reflects the requestor is suspected of having committed the alleged abuse. *See id.* § 261.201(k) (parental exception to section 261.201(a) inapplicable where parent alleged to have committed abuse/neglect at issue). Accordingly, we conclude none of the exceptions in subsection 261.201(k) apply to the submitted report. Therefore, we conclude the submitted report is confidential pursuant to section 261.201 of the Family Code, and the district must withhold the report in its entirety under section 552.101 of the Government Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). As our ruling is dispositive, we need not address your remaining 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,

A handwritten signature in black ink, appearing to read "Bob Davis", with a long, sweeping tail extending to the right.

Bob Davis
Assistant Attorney General
Open Records Division

RSD/tp

Ref: ID# 391091

Enc. Submitted documents

c: Requestor
(w/o enclosures)