



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 9, 2010

Ms. Cecilia Gamez
Crime Records Bureau
McAllen Police Department
P.O. Box 220
McAllen, Texas 78501

OR2010-13740

Dear Ms. Gamez:

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# 392998.

The McAllen Police Department (the "department") received a request for a specified police report. 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 information made confidential by other statutes, including section 261.201 of the Family Code, which provides in part:

(a) Except as provided by Section 261.203, the 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 assert the information at issue relates to a child who may be the victim of an alleged crime. We note the submitted information relates to an investigation of alleged online solicitation of a minor. However, the report does not list a child or minor as the complainant. *See id.* § 101.003(a) (defining “child” or “minor” for purposes of Fam. Code ch. 261); Penal Code § 33.021(a)(1) (defining “minor” for purposes of Penal Code § 33.021). Thus, the submitted information does not consist of files, reports, records, communications, or working papers used or developed in an investigation of alleged child abuse or neglect under chapter 261 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (addressing predecessor statute). We therefore conclude that the department may not withhold the submitted report under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

We note a portion of the information is excepted under section 552.130 of the Government Code, which provides that information relating to a motor vehicle title or registration issued by a Texas agency is excepted from public release.¹ Gov’t Code § 552.130(a)(2). Accordingly, the department must withhold the Texas motor vehicle record information we have marked under section 552.130. As you raise no other argument against disclosure, the remaining information must be released.

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

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¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 392998

Enc. Submitted documents

c: Requestor
(w/o enclosures)