



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 1, 2010

Ms. Rebecca Brewer
Abernathy, Roeder, Boyd & Joplin, P.C.
For City of Wylie
P.O. Box 1210
McKinney, Texas 75070-1210

OR2010-16465

Dear Ms. Brewer:

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# 398957.

The City of Wylie and the Wylie Police Department (collectively, the "city"), which you represent, received four requests for information related to a specified incident, including 9-1-1 calls, video recordings, an incident report, and other calls for service to the same address during a particular time period. You state that the city has no information responsive to the request for other calls for service to the same address.¹ You claim that 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.

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

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 exception 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 [the Family 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 state, and provide an affidavit of the city’s Chief of Police stating, that the submitted information is being used in an investigation by the Department of Family and Protective Services (the “department”) under chapter 261 of the Family Code. *See id.* §§ 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Family Code ch. 261), .301(a) (entities authorized to perform chapter 261 investigations include Department of Family and Protective Services); *see also id.* §§ 101.003(a) (defining “child”). You have not indicated that either the city or the department 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 determine 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. 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 398957

Enc. Submitted documents

c: Requestors
(w/o enclosures)