



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 16, 2010

Ms. Kelley Messer
Assistant City Attorney
City of Abilene
P.O. Box 60
Abilene, Texas 79604-0060

OR2010-17333

Dear Ms. Messer:

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# 400197.

The City of Abilene (the "city") received a request for a specified incident 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 protected by other statutes, including section 261.201 of the Family Code, which provides as follows:

(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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas 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). Upon review, we find the submitted information was used or developed in an investigation of alleged or suspect child abuse under chapter 261 of the Family Code, so as to fall within the scope of section 261.201(a). *See id.* § 261.001 (defining “abuse” for purposes of Fam. Code ch. 261); *see also id.* § 101.003(a) (defining “child” for purposes of section 261.201 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). Thus, we find the submitted information is generally confidential under section 261.201 of the Family Code. We note the requestor is the mother of the child victims listed in the report. However, the mother is the individual alleged to have committed the alleged or suspected abuse; thus, the requestor does not have a right of access under section 261.201(k). *See id.* § 261.201(k). Accordingly, the city must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (construing predecessor statute).

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 cursive script that reads "Jennifer Burnett".

Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

Ref: ID# 400197

Enc. Submitted documents

c: Requestor
(w/o enclosures)