



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 22, 2010

Ms. Luz E. Sandoval-Walker
Assistant City Attorney
El Paso City Prosecutor's Office
801 East Overland Avenue
El Paso, Texas 79901-2516

OR2010-17606

Dear Ms. Sandoval-Walker:

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# 402352 (El Paso Reference # 2010-09-43-AG).

The El Paso Police Department (the "department") received a request for information pertaining to a specified case number. 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. Section 261.201 provides in part:

- (a) Except as provided by Section 261.203, the following information is confidential, is not subject to public release under chapter 552, Government Code, 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.

(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). The submitted information relates to an investigation of alleged online solicitation of a minor. *See id.* § 261.001(1) (defining “abuse” for purposes of chapter 261 of the Family Code). In this instance, the complainant at issue is a child or minor for purposes of section 261.201. *See id.* § 101.003 (defining “child” or “minor” for purposes of Fam. Code ch. 261); Penal Code § 33.021(a) (defining “minor” for purposes of Penal Code § 33.021). Accordingly, we find the submitted information falls within the scope of section 261.201(a). As you do not state the department has adopted a rule that governs the release of this type of information, we assume none exists. Given that assumption, we conclude the submitted information is confidential under section 261.201(a) of the Family Code, and the department must withhold this information in its entirety under section 552.101 of the Government Code on that basis.

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,



Christina Alvarado
Assistant Attorney General
Open Records Division

CA/tp

Ref: ID# 402352

Enc. Submitted documents

c: Requestor
(w/o enclosures)