



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 1, 2010

Mr. Michael L. Spain  
Fulbright & Jaworski L.L.P.  
300 Convent Street, Suite 2200  
San Antonio, Texas 78205

OR2010-18000

Dear Mr. Spain:

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# 401594.

The Shertz Police Department (the "department"), which you represent, received a request for information related to a specified incident involving alleged child abandonment. 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. 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.

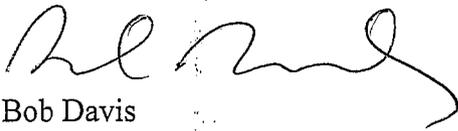
Fam. Code § 261.201(a), (k). You represent that the submitted report was used or developed in an investigation by the department of alleged child neglect. *See id.* §§ 261.001(4)(A) (definition of “neglect” for purposes of chapter 261 of the Family Code includes abandoning child without intent to return), 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). Accordingly, this report is within the scope of section 261.201(a) of the Family Code. Although the requestor is the mother of the listed child victim, you state, and the submitted request reflects, that the requestor is suspected of having committed the alleged neglect. Accordingly, we conclude none of the exceptions in subsection (k) apply in this instance. *See id.* § 261.201(k) (parental exception to section 261.201(a) inapplicable where parent alleged to have committed abuse/neglect at issue). Thus, the submitted report is confidential pursuant to section 261.201 of the Family Code, and the department 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).

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](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", written in a cursive style.

Bob Davis  
Assistant Attorney General  
Open Records Division

RSD/tf

Ref: ID# 401594

Enc. Submitted documents

c: Requestor  
(w/o enclosures)