



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 15, 2010

Ms. Amy L. Sims
Assistant City Attorney
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457

OR2010-18790

Dear Ms. Sims:

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# 403049.

The City of Lubbock (the "city") received a request for a police incident report involving a named individual during a specified time period. You claim the submitted incident report is excepted from disclosure under section 552.101 of the Government Code.¹ 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, such as section 261.201(a) of the Family Code, which provides:

(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

¹Although you also raise section 552.108 of the Government Code, you have not submitted arguments explaining how this exception applies to the submitted information. Therefore, we presume you have withdrawn your claim under this exception. See Gov't Code §§ 552.301, .302.

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 incident report number 88-005549 reflects it was used or developed in an investigation by the city's police department (the "department") of alleged child abuse. *See id.* § 261.001(1)(E) (definition of "abuse" for purposes of Fam. Code ch. 261 includes indecency with a child under Penal Code section 21.11); *see also* Penal Code § 21.11(a) (defining "child" for purposes of Penal Code section 21.11 as a person younger than 17 years of age). We find the report is within the scope of section 261.201 of the Family Code. You have not indicated the department has adopted a rule that governs the release of this type of information; therefore, we assume no such regulation exists. Given that assumption, the city must withhold the submitted incident report under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). As our ruling is dispositive, we need not address your 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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 403049

Enc. Submitted documents

c: Requestor
(w/o enclosures)