



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 13, 2011

Ms. Linda M. Champion
Assistant City Attorney
City of Victoria
P.O. Box 1758
Victoria, Texas 77902-1758

OR2011-09953

Dear Ms. Champion:

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# 423753.

The City of Victoria (the "city") received a request for all offense and arrest reports pertaining to a named individual, including a specified incident that occurred in 1988. 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.

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, which provides in relevant part the following:

(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.

Fam. Code § 261.201(a). You state the submitted report relates to an investigation of alleged or suspected 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(1) (defining “abuse” for purposes of chapter 261 of the Family Code), 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). However, upon review, we find the submitted report pertains to an assault investigation and was not used or developed in an investigation of alleged child abuse or neglect under section 261.201(a)(2). Therefore, the city may not withhold the submitted report under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

You assert the submitted prosecution charge report is confidential under section 552.101 of the Government Code because it is “attorney work product.” This office has concluded section 552.101 does not encompass discovery privileges. *See Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990).* Furthermore, you have not raised another exception in this regard, established the prosecutor’s interest in protecting the information as attorney work product, or explained why the information is protected as work product. *See Gov’t Code §§ 552.301(a), (e)(1)(A) (requiring governmental body to raise and explain applicability of exceptions), .108(a)(4), (b)(3).* Therefore, we conclude the city may not withhold the prosecution charge report under section 552.101 of the Government Code as “attorney work product.” As you raise no further exceptions to disclosure, the submitted information must be released.¹

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_or1.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

¹We note the information being released contains social security numbers. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act. Gov’t Code § 552.147(b).

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 'VB', followed by a long horizontal flourish.

Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 423753

Enc. Submitted documents

c: Requestor
(w/o enclosures)