



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 19, 2011

Mr. B. Chase Griffith
For the Town of Little Elm
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2011-13515

Dear Mr. Griffith:

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# 430262.

The Little Elm Police Department (the "department"), which you represent, received a request for three specified reports. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions 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 of the Family Code provides, in relevant part, as follows:

(a) [T]he 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; 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). You argue reports 11-000746, 39946087, and 39946169 consist of reports of alleged or suspected child abuse or neglect that are subject to chapter 261 of the Family Code. Based on your representation and our review, we agree reports 11-000746, 39946087, and 39946169 consist of files, reports, records, communications, or working papers used or developed in investigations conducted under chapter 261 of the Family Code by the department and Child Protective Services (“CPS”). *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining “child” for purposes of this section 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). We note the requestor is the father of the child victims at issue in reports 11-000746, 39946087, and 39946169. However, the requestor is accused of committing the alleged child abuse or neglect at issue in report 11-000746. Thus, report 11-000746 must be withheld from the requestor pursuant to section 261.201(k). *Id.* § 261.201(k) (stating child’s parent may not obtain information subject to section 261.201(a) concerning reported abuse or neglect of child if parent is alleged to have committed the abuse or neglect). Further, we note that CPS is the investigating agency for the remaining reports. Accordingly, the department must withhold reports 39946087 and 39946169 under section 552.101 in conjunction with section 261.201(a)(2).¹ *See* Open Records Decision No. 440 at 2 (1986) (construing predecessor statute).

¹As our ruling is dispositive, we do not address your remaining 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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/agn

Ref: ID# 430262

Enc. Submitted documents

c: Requestor
(w/o enclosures)