



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 13, 2011

Ms. Mandy Smithers  
Senior Paralegal & Custodian of Records  
Denton County Sheriff's Office  
127 North Woodrow Lane  
Denton, Texas 76205

OR2011-18340

Dear Ms. Smithers:

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# 438751.

The Denton County Sheriff's Office (the "sheriff") received a request for narratives or affidavits related to the arrest of a named City of Sanger police officer on specified charges. You claim the requested 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 information you submitted.

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 exception encompasses information other statutes make confidential. You claim section 552.101 in conjunction with section 261.201 of the Family Code, which provides in part:

(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 [chapter 261 of the Family Code] 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

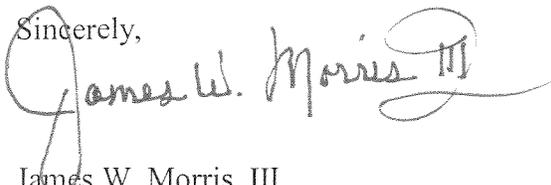
used or developed in an investigation under [chapter 261 of the Family Code] or in providing services as a result of an investigation.

Fam. Code § 261.201(a). The submitted information is related to an investigation of allegations of criminal solicitation of a minor. *See* Penal Code § 15.031(b) (person commits offense if, with intent that offense under Penal Code §§ 21.11, 22.011, or 22.021 be committed, person by any means requests, commands, or attempts to induce minor to engage in specific conduct that would constitute offense under one of those sections); Fam. Code § 261.001(1)(G) (“abuse” for purposes of chapter 261 of the Family Code includes compelling or encouraging a child to engage in sexual conduct as defined by Penal Code § 43.01); *see also* Penal Code §§ 15.031(f) (defining “minor”), 21.11(a) (defining “child”), 22.011(c) (same), 22.021(b) (same); Fam. Code § 101.003(a) (defining “child” for purposes of Fam. Code § 261.201). We find the information at issue consists of files, reports, records, communications, or working papers used or developed in an investigation under chapter 261 of the Family Code, so as to fall within the scope of section 261.201(a). As you do not indicate the sheriff has adopted a rule that governs the release of this type of information, we assume no such rule exists. Given that assumption, we conclude the sheriff must withhold the submitted information in its entirety 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) (addressing predecessor statute).<sup>1</sup>

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,



James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/em

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<sup>1</sup>As we are able to make this determination, we do not address your other arguments against disclosure.

Ref: ID# 438751

Enc: Submitted documents

c: Requestor  
(w/o enclosures)