



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 14, 2011

Mr. David H. Guerra
Attorney for City of Mission
King, Guerra, Davis & Garcia, P.C.
P.O. Box 1025
Mission, Texas 78573-0017

OR2011-18394

Dear Mr. Guerra:

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# 439852.

The Mission Police Department (the "department"), which you represent, received a request for information pertaining to a specified case. You state you do not have a portion of the requested information.¹ 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 information you have 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. Section 552.101 encompasses information protected by other statutes, such as section 261.201 of the Family Code, which provides:

(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:

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

(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 information pertains to suspected child abuse and is excepted from disclosure under section 261.201 of the Family Code. *See id.* § 261.001(1)(E) (defining “abuse” for the purposes of chapter 261 of the Family Code as including offense of sexual assault under Penal Code section 22.011); Penal Code § 22.011(c)(1) (defining “child” for purposes of Penal Code section 22.011 as person under 17 years of age). You have not indicated that 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, we find the submitted information is confidential under section 261.201 of the Family Code and must be withheld under section 552.101 of the Government Code.²

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,



Melanie J. Villars
Assistant Attorney General
Open Records Division

MJV/dls

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of the submitted information.

Ref: ID# 439852

Enc. Submitted documents

c: Requestor
(w/o enclosures)