



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 16, 2011

Mr. Ronald J. Bounds  
Assistant City Attorney  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2011-18563

Dear Mr. Bounds:

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# 439207.

The Corpus Christi Police Department (the "department") received two requests for the report related to a specified case. You claim 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 section 261.201 of the Family Code, which states:

(a) Except as provided by Section 261.203, the 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 department 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.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

(1) any personally identifiable information about a victim or witness under 18 years of age unless that victim or witness is:

(A) the child who is the subject of the report; or

(B) another child of the parent, managing conservator, or other legal representative requesting the information;

(2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law; and

(3) the identity of the person who made the report.

Fam. Code § 261.201(a), (k)–(l). You state the submitted information was used or developed in an investigation of alleged child abuse. *See id.* § 261.001(1)(E) (defining “abuse” for purposes of chapter 261 of the Family Code as including offense of aggravated sexual assault under section 22.021 of the Penal Code); *see also* Penal Code § 22.011 (defining “child” for purposes of aggravated sexual assault of a child as person under 17 years of age). However, we note the requestors identify themselves as parents of one of the child victims named in the report, and neither is accused of having committed the abuse. Accordingly, the department may not withhold from these requestors information concerning the alleged abuse that would otherwise be confidential under section 261.201(a). *See Gov’t Code*

§ 261.201(k). Nonetheless, before the department provides information concerning this report, it must redact any personally identifiable information about a victim or witness under 18 years of age who is not the requestors' own child, and the identity of person who made the report. *See id.* § 261.201(l)(1), (3). We have marked the information the department must withhold under section 552.101 of the Government Code in conjunction with subsections 261.201(l)(1) and 261.201(l)(3) of the Family Code. The department also must redact any other information otherwise excepted from required disclosure under the Act. *See id.* § 261.201(l)(2). We note some of the remaining information is subject to the doctrine of common-law privacy, which is also encompassed by section 552.101 of the Government Code.

The doctrine of common-law privacy protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681–82. The type of information considered highly intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. Upon review, we find the information we have marked is highly intimate or embarrassing and of no legitimate concern to the public. Accordingly, the department must withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with subsections 261.201(l)(1) and 261.201(l)(3) of the Family Code and common-law privacy. The remaining information must be released to these requestors.<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.

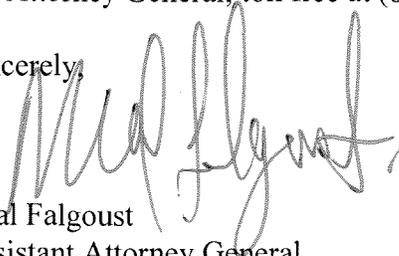
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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

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<sup>1</sup>We note the requestors have a special right of access under section 261.201(k) of the Family Code to the information being released. If the department receives another request for this same information from a different requestor, it must again seek a ruling from this office.

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 'Neal Falgoust', written over the word 'Sincerely,'.

Neal Falgoust  
Assistant Attorney General  
Open Records Division

NF/agn

Ref: ID# 439207

Enc. Submitted documents

c: Requestor  
(w/o enclosures)