



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 30, 2012

Mr. Gregory A. Alicie  
Open Records Specialist  
Baytown Police Department  
3200 North Main Street  
Baytown, Texas 77521

OR2012-01521

Dear Mr. Alicie:

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# 443766.

The Baytown Police Department (the "department") received two requests from different requestors for information pertaining to a specified police report.<sup>1</sup> 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 public 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 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 this chapter and the identity of the person making the report; and

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<sup>1</sup>We note the first request was received by the department on November 4, 2011, while the second request was received on November 22, 2011. For purposes of this ruling, the requestor whose request was received on November 4<sup>th</sup> will be referred to as the "first requestor" and the requestor whose request was received on November 22<sup>nd</sup> will be referred to as the "second requestor."

(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 . . . 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). Because the submitted report pertains to an investigation of alleged child abuse, the submitted information is within the scope of chapter 261 of the Family Code. *See id.* § 261.001(1)(E) (definition of “abuse” for purposes of chapter 261 of the Family Code includes indecency with child, sexual assault, and aggravated sexual assault under Penal Code sections 21.11 and 22.011); *see also* Penal Code §§ 21.11 (defining “child” for purposes of section 21.11 as a minor younger than 17 years of age), 22.011(c)(1) (defining “child” for purposes of section 22.011 as “a person younger than 17 years of age”).

We note, and you acknowledge, the first requestor is the child victim listed in the submitted records. Because she is not at least eighteen years of age, the first requestor does not have a right of access to this information under section 261.201(k) of the Family Code and it must be withheld under section 552.101 in conjunction with section 261.201. *See* Fam. Code § 261.201(k). The second requestor, however, is a parent of the child victim listed in the police report. Although you state the parent is suspected of committing the alleged abuse or neglect, we find the second requestor was not a suspect in the alleged abuse. Therefore, pursuant to section 261.201(k), the department may not withhold the submitted information from the second requestor under section 261.201(a). *Id.* Accordingly, the department must release the submitted information to the second requestor under section 261.201(k).

In summary, the department must withhold the submitted information in its entirety from the first requestor under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. Pursuant to section 261.201, the department must release the submitted information to the second requestor.<sup>2</sup>

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<sup>2</sup>We note the information being released to the second requestor contains confidential information regarding the alleged child victim to which the requestor has a right of access. *See* Fam. Code § 261.201(k). Accordingly, if the department receives another request for this particular information from a different requestor, then the department should again seek a decision from this office.

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,



Michelle R. Garza  
Assistant Attorney General  
Open Records Division

MRG/em

Ref: ID# 443766

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)