



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 17, 2012

Mr. John Ohnemiller
First Assistant City Attorney
City of Midland
300 North Loraine, Room 320
P.O. Box 1152
Midland, Texas 79702-1152

OR2012-07407

Dear Mr. Ohnemiller:

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# 453987.

The City of Midland (the "city") received a request for information pertaining to a named individual, including a specified arrest. 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 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(a) of the Family Code, which provides 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

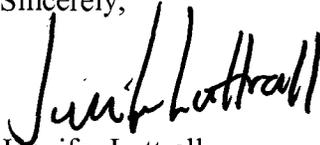
(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). You state the submitted information was used or developed in an investigation of alleged child abuse. Based on your representation and our review of the information at issue, we agree the submitted information is subject to section 261.201 of the Family Code. *See id.* §§ 261.001(1)(K) (“abuse” for purposes of chapter 261 of the Family Code includes causing, permitting, encouraging, engaging in, or allowing sexual performance by a child as defined by section 43.25 of the Penal Code), 101.003(a) (defining “child” for purposes of section 261.201 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”); *see also* Penal Code § 43.25(b) (providing that a person commits an offense if “he employs, authorizes, or induces a child younger than 18 years of age to engage in sexual conduct or sexual performance”). As you do not indicate the city’s police department 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 city 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).

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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/som

Ref: ID# 453987

Enc. Submitted documents

c: Requestor
(w/o enclosures)