



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 29, 2012

Mr. B. Chase Griffith
Counsel for the City of McKinney
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2012-13632

Dear Mr. Griffith:

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# 464390 (ORR #10-5555).

The McKinney Police Department (the "department"), which you represent, received a request for a specified report.¹ You claim that 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(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:

¹We note the department sought and received clarification of the request. See Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information); see also *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

(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 representations 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)(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 sexual assault of a child as person under 17 years of age). As you do not indicate the 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 department 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,



Sean Opperman
Assistant Attorney General
Open Records Division

SO/som

Ref: ID# 464390

Enc. Submitted documents

**c: Requestor
(w/o enclosures)**