



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 7, 2012

Mr. Peter Gruning
Lockhart City Attorney
Duvall, Gruning, & Dietz, PLLC
112 North LBJ Drive
San Marcos, Texas 78666

OR2012-17905

Dear Mr. Gruning:

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# 470369.

The Lockhart Police Department (the "department"), which you represent, received a request for a specified police report. 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 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. This exception encompasses information other statutes make confidential, such as 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 [chapter 261 of the Family Code] and the identity of the person making the report; and

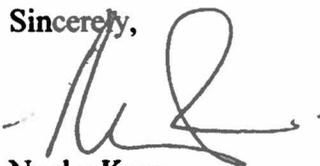
(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under [chapter 261 of the Family Code] or in providing services as a result of an investigation.

Fam. Code § 261.201(a). The submitted information is related to an investigation of allegations of criminal solicitation of a minor. *See* Penal Code § 15.031(b) (person commits offense if, with intent that offense under Penal Code §§ 21.11, 22.011, or 22.021 be committed, person by any means requests, commands, or attempts to induce minor to engage in specific conduct that would constitute offense under one of those sections); *see also id.* §§ 15.031(f) (defining “minor”), 21.11(a) (defining “child”), 22.011(c) (same), 22.021(b) (same); Fam. Code § 101.003(a) (defining “child” for purposes of Fam. Code § 261.201). Upon review, we find the submitted information was used or developed in an investigation under chapter 261 of the Family Code, so as to fall within the scope of section 261.201(a). 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).¹

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,



Nneka Kanu
Assistant Attorney General
Open Records Division

NK/bhf

¹As we are able to make this determination, we do not address your arguments against disclosure.

Ref: ID# 470369

Enc. Submitted documents

c: Requestor
(w/o enclosures)