



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 10, 2014

Ms. Susan Camp-Lee
Counsel for the City of Round Rock
Sheets & Crossfield, P.C.
309 East Main Street
Round Rock, Texas 78664

OR2014-18220

Dear Ms. Camp-Lee:

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# 539092.

The Round Rock Police Department (the "department"), which you represent, received a request for any and all records concerning a specified police report and a named individual. You state you have released some information to the requestor. You claim a portion of 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 of the Government Code encompasses section 261.201 of the Family Code¹, which provides, in relevant 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

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

(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 [Texas Department of Family and Protective Services] 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 [the Act], or other law[.]

Fam. Code § 261.201(a), (k), (l)(1)-(2). Upon review, the submitted information pertains to an investigation of alleged or suspected child abuse and is within the scope of section 261.201 of the Family Code. *See id.* § 261.001(1) (defining “abuse” for purposes of Family Code chapter 261); *see also id.* § 101.003(a) (defining “child” for purposes of this section 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). In this instance we note the requestor is an attorney representing the parents of one of the child victims listed in the information, and the requestor’s clients are not alleged to have committed the abuse. Thus, the submitted information may not be withheld from this requestor on the basis of section 261.201(a). *See id.* § 261.201(k). Subsection 261.201(l)(1), however, states the

personally identifiable information of a victim or witness who is under the age of eighteen and is not a child of the parent, managing conservator, or other legal representative requesting the information must be withheld from disclosure. *Id.* § 261.201(l)(1). Thus, in conjunction with section 552.101 of the Government Code, the department must withhold the information we have marked under subsection 261.201(l)(1) of the Family Code. In addition, section 261.201(l)(2) states any information that is excepted from required disclosure under the Act or other law may still be withheld from disclosure. *Id.* § 261.201(l)(2). Thus, we will consider your argument under section 552.101 of the Government Code.

Section 552.101 also encompasses information protected by other statutes, including section 1703.306 of the Occupations Code, which provides the following:

(a) A polygraph examiner, trainee, or employee of a polygraph examiner, or a person for whom a polygraph examination is conducted or an employee of the person, may not disclose information acquired from a polygraph examination to another person other than:

- (1) the examinee or any other person specifically designated in writing by the examinee;
- (2) the person that requested the examination;
- (3) a member, or the member's agent, of a governmental agency that licenses a polygraph examiner or supervises or controls a polygraph examiner's activities;
- (4) another polygraph examiner in private consultation; or
- (5) any other person required by due process of law.

(b) The [Texas Department of Licensing and Regulation] or any other governmental agency that acquires information from a polygraph examination under this section shall maintain the confidentiality of the information.

(c) A polygraph examiner to whom information acquired from a polygraph examination is disclosed under Subsection (a)(4) may not disclose the information except as provided by this section.

Occ. Code § 1703.306. Upon review, we find the information we marked constitutes information acquired from a polygraph examination that is confidential under section 1703.306. It does not appear the requestor falls into any of the categories of individuals who are authorized to receive the polygraph information under section 1703.306(a). Accordingly, the department must withhold the polygraph information

we marked under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code. However, we find none of the remaining information consists of polygraph information for the purposes of section 1703.306. Accordingly, the department may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code.

In summary, the department must withhold the information we have marked under section 552.101 in conjunction with section 261.201(l)(1) of the Family Code. The department must withhold the polygraph information we marked under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code. The remaining information must be released.²

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Rustam Abedinzadeh
Assistant Attorney General
Open Records Division

RA/dls

Ref: ID# 539092

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note the requestor has a special right of access to the information being released pursuant to section 261.201(k) of the Family Code. Therefore, if the department receives another request for this information from a different requestor, then the department should again seek a decision from this office.