



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 19, 2019

Mr. Thomas McMillian
Assistant City Attorney
City of Amarillo
200 Southeast Third Avenue, Fourth Floor
Amarillo, Texas 79101-1514

OR2019-07565

Dear Mr. McMillian:

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# 762925 (PIR 18-1212).

The Amarillo Police Department (the "department") received a request for a specified incident report. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ 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:

¹We note, and you acknowledge, the department failed to comply with the procedural requirements of section 552.301 of the Government Code in requesting a decision from this office. *See* Gov't Code § 552.301(b), (e). Nonetheless, section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness caused by failure to comply with section 552.301. *See id.* §§ 552.007, .302. Thus, we will address the applicability of this exception to the submitted information, notwithstanding the department's violation of section 552.301 in requesting this decision.

(a) Except as provided by Section 261.203, the 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). Upon review, we find the submitted information was used or developed in an investigation of alleged or suspected child abuse or neglect. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” 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 disabilities of minority removed for general purposes). Thus, the information at issue is confidential under section 261.201. Accordingly, the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (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.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,



Kieran Hillis
Assistant Attorney General
Open Records Division

KH/jxd

Ref: ID# 762925

Enc. Submitted documents

c: Requestor
(w/o enclosures)