



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 2, 2009

Ms. Teresa L. Presley
Records Manager
Frisco Police Department
7200 Stonebrook Parkway
Frisco, Texas 75034

OR2009-04365

Dear Ms. Presley:

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# 343343.

The Frisco Police Department (the "department") received a request for all incident reports pertaining to the requestor during a specified time period. You claim the requested 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.

First, you inform us one of the responsive reports was the subject of a previous ruling issued by this office. In Open Records Letter No. 2009-00643 (2009), we determined the department must withhold report number 08124616 under section 552.101 in conjunction with section 261.201 of the Family Code. We presume the facts and circumstances have not changed since the issuance of this prior ruling. Thus, we determine the department must continue to rely on our ruling in Open Records Letter No. 2009-00643 as a previous determination and withhold or release the information at issue in accordance with that decision. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). We will address your argument for the remaining submitted report.

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 section encompasses information protected by other statutes. Section 261.201(a) of the Family Code provides in relevant part:

(a) 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). You claim report number 08096938 is subject to section 261.201. We note, however, this report pertains to the alleged violation of a protective order. After review of your arguments and the information at issue, we find you have not demonstrated that report number 08096938 was used or developed in an investigation under chapter 261; therefore, report number 08096938 is not confidential under section 261.201, and the department may not withhold the information under section 552.101 on that ground. As you have raised no further exceptions to the disclosure of report number 08096938, it must be released.

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 at (512) 475-2497.

Sincerely,



Olivia A. Maceo
Assistant Attorney General
Open Records Division

OM/eeg

Ref: ID# 343343

Enc. Submitted documents

c: Requestor
(w/o enclosures)