



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 17, 2009

Ms. Cheryl K. Byles
Assistant City Attorney
The City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2009-11498

Dear Ms. Byles:

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# 352494 (City Request No. 3853-09).

The City of Fort Worth (the "city") received a request for two incident reports. You state that Texas-issued motor vehicle information will be redacted pursuant to previous determinations issued to the city in Open Records Letter Nos. 2007-00198 (2007) and 2006-14726 (2006). *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). You also state you have redacted social security numbers pursuant to section 552.147 of the Government Code.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. This section encompasses information protected by other statutes. Section 552.101 encompasses section 261.201(a) of the Family Code, which provides as follows:

¹ Section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

(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.

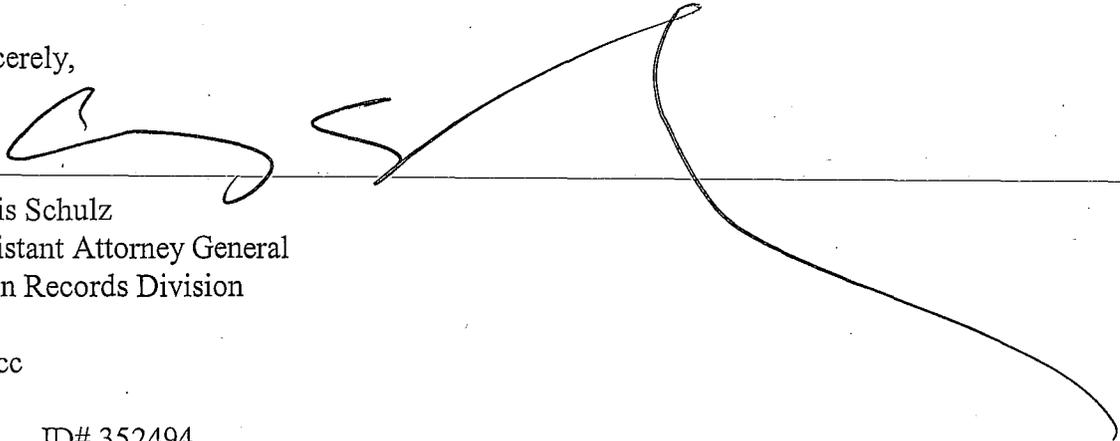
Fam. Code § 261.201(a). You assert the submitted incident reports were used or developed in an investigation of alleged child abuse. Upon review, we agree report number 09-7178 used or developed in an investigation under chapter 261 of the Family Code. *See id.* § 261.001 (defining "abuse" and "neglect" for purposes of chapter 261 of the Family Code). However, report number 08-140129 pertains to an investigation of burglary. Thus, report number 08-140129 is not confidential under section 261.201(a)(2) of the Family Code and may not be withheld in its entirety under section 552.101 of the Government Code. However, we note that a portion of report number 08-140129, which we have marked, pertains to a report of alleged or suspected child abuse or neglect. *See id.* § 261.201(a)(1). Accordingly, the information we have marked in report number 08-140129 is within the scope of section 261.201 of the Family Code. You do not state that the city has adopted a rule that governs the release of this type of information. Thus, we assume no such rule exists. Therefore you must withhold report number 09-7178 and the information we have marked in report number 08-140129 under section 552.101 in conjunction with section 261.201 of the Family Code.² As you raise no further exceptions against disclosure, the remaining information must be released.

² We note that the requestor, as a parent of a child who is the subject of reported abuse or neglect, may have a right of access to certain abuse and neglect records maintained by the Texas Department of Family and Protective Services ("DFPS"). Section 261.201(g) of the Family Code provides that DFPS, upon request and subject to its own rules: shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect information concerning the reported abuse or neglect that would otherwise be confidential under this section if DFPS has edited the information to protect the confidentiality of the identity of the person who made the report and any other person whose life or safety may be endangered by the disclosure. Fam. Code § 261.201(g).

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,

A large, handwritten signature in black ink, appearing to read 'Chris Schulz', is written across the horizontal line. The signature is stylized and extends across most of the width of the page.

Chris Schulz
Assistant Attorney General
Open Records Division

CS/cc

Ref: ID# 352494

Enc. Submitted documents

cc: Requestor
(w/o enclosures)