



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 30, 2010

Ms. Jessica Sangsvang
Assistant City Attorney
The City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2010-11503

Dear Ms. Sangsvang:

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# 388614 (Fort Worth P.I.R. No. W001151).

The City of Fort Worth (the "city") received a request for a specified incident report. You claim that 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. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

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 information that other statutes make confidential, such as section 261.201(a) of the Family Code, which provides in part as follows:

(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.

...

(f-1) The [Texas Department of Family and Protective Services (the "department")] shall provide to a relative or other individual with whom a child is placed any information the department considers necessary to ensure that the relative or other individual is prepared to meet the needs of the child. The information required by this subsection may include information related to any abuse or neglect suffered by the child.

(g) Notwithstanding Subsection (b), the department, on request and subject to department rule, 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 report abuse or neglect that would otherwise be confidential under this section if the department 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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the department 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.

Fam. Code § 261.201(a), (f-1), (g), (k). Upon review, we find that the submitted information was used or developed in an investigation into alleged child abuse under chapter 261. *See id.* § 261.001(1) (defining "abuse" for purposes of Family Code ch. 261). As there is no indication that the city's police department has adopted a rule that governs the release of this

type of information, we assume that no such rule exists. Accordingly, we find that the submitted information is within the scope of section 261.201 of the Family Code.

The requestor, however, asserts she has a right of access to the information under section 552.023 of the Government Code. Section 552.023 provides that a person or a person's authorized representative has a special right of access to information that is excepted from public disclosure under laws intended to protect that person's privacy interests. *See* Gov't Code § 552.023(a). However, the release of information made confidential by section 261.201 of the Family Code is governed by the provisions of chapter 261 of the Family Code, not by section 552.023 of the Government Code. Furthermore, although the requestor states she is the legal representative of two children, we note that neither of these children is the subject of the reported abuse. Therefore, section 261.201(k) does not apply and the requestor does not have a right of access to this information on that basis. The requestor also asserts she has a right of access to the information at issue under subsections 261.201(f-1) and (g). We note subsections 261.201(f-1) and (g) apply to information in the possession of the department. *See* Fam. Code § 261.001(2) (defining "department" for purposes of Family Code ch. 261). The information at issue is in the possession of the city. Accordingly, we find neither subsection 261.201(f-1) or (g) is applicable in this instance. Therefore, the city must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.

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,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/jb

Ref: ID# 388614

Enc. Submitted documents

c: Requestor
(w/o enclosures)