



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 5, 2010

Ms. Cara Leahy White
Taylor Olson Adkins Sralla Elam, L.L.P.
For City of Azle
6000 Western Place, Suite 200
Fort Worth, Texas 76107-4654

OR2010-11876

Dear Ms. White:

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# 389412.

The City of Azle (the "city"), which you represent, received a request for a specified report. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

This office has previously ruled upon a portion of the submitted information in Open Records Letter No. 2010-10779 (2010). In that ruling, this office concluded that the city must withhold the arrest warrant and probable cause affidavit under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. As we have no indication that the law, facts, and circumstances on which this prior ruling was based have changed, you must continue to rely on this prior ruling as a previous determination and withhold the information requested in this instance that was previously ruled upon in that decision.¹ See Open Records Decision No. 673 (2001) (so long as law, facts, 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 prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

¹As we are able to make this determination, we need not address your arguments against disclosure of this information.

Section 552.101 of the Government Code exempts 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 of the Family Code, which provides as follows:

(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

(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 inform us that the remaining information was used in an investigation of a charge of failure to report child abuse. *See id.* § 261.109(a) (person commits offense if person has cause to believe that a child’s physical or mental health or welfare has been or may be adversely affected by abuse and knowingly fails to report); *see also id.* §§ 261.001(1) (defining “abuse” for purposes of chapter 261 of the Family Code); 101.003 (defining “child” for purpose of this section as a 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). Therefore, we conclude that the investigation at issue was conducted pursuant to chapter 261 of the Family Code. Accordingly, the remaining information falls within the scope of section 261.201 of the Family Code. You have not indicated that the city has adopted a rule that governs the release of this type of information. Therefore, we assume that no such rule exists. Given that assumption, the city must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.²

In summary, the city must continue to rely on Open Records Letter No. 2010-10779 as a previous determination and withhold the information requested in this instance that was previously ruled upon in that decision. The city must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

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,

A handwritten signature in black ink, appearing to read 'T Wilcox', written in a cursive style.

Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/dls

Ref: ID# 389412

Enc. Submitted documents

c: Requestor
(w/o enclosures)