ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 8, 2011

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

OR2011-09689

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# 423254 (PIR No. W008403).

The City of Fort Worth (the "city") received a request for all reports and other records during a specified time period pertaining to domestic violence and two named individuals. You indicate the city will provide some of the requested information to the requestor. You claim portions of the submitted incident report are 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 exception encompasses information made confidential by other statutes, such as section 261.201 of the Family Code, which provides, in relevant part:

> (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.
>
> . . .
>
> (k) Notwithstanding Subsection (a), an investigating agency . . . 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.
>
> (l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:
>
> . . .
>
> (2) any information that is excepted from required disclosure under [the Act], or other law; and
>
> (3) the identity of the person who made the report.

Fam. Code § 261.201(a), (k), (l)(2), (3). You state the submitted incident report number 04011824 was used or developed in an investigation by the city's police department of alleged child abuse. *See id.* § 261.001(1) (defining "abuse" for purposes of Fam. Code ch. 261); *see also* Penal Code § 22.04(c) (defining "child" for purposes of injury to a child as a person 14 years of age or younger). Based on your representations and our review, we find report number 04011824 is confidential under section 261.201(a) of the Family Code.

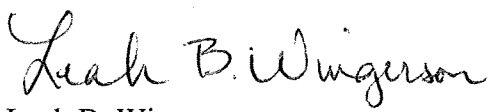
As you acknowledge, however, the requestor is a parent of the child victim listed in the report, and the requestor is not suspected of having committed the alleged abuse. In this instance, the city may not use section 261.201(a) to withhold this report from this requestor. *Id.* § 261.201(k). Section 261.201(l)(3), however, states the identity of the reporting party must be withheld. *Id.* § 261.201(l)(3). You seek to withhold the information you have marked as reporting party information. Upon review, the city must withhold the identifying information of the reporting party, which we have marked, in report number 04011824 under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the

Family Code. The remaining information you have marked does not reveal the identity of the reporting party. As you have not claimed any other exceptions to disclosure, the city must release the remainder of the report to this requestor.[1] *See id.* § 261.201(l)(2).

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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 423254

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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[1]Because the information to be released to this requestor would otherwise be excepted from release under the Act, the department must again seek a decision from this office if it receives a request for this information from a different requestor.