



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 21, 2011

Mr. Tyler F. Wallach  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, Third Floor  
Fort Worth, Texas 76102

OR2011-17119

Dear Mr. Wallach:

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# 436650 (Fort Worth PIR No. W011425).

The City of Fort Worth (the "city") received a request for information related to a specified incident. You state you will redact certain Texas motor vehicle record information under section 552.130 of the Government Code pursuant to a previous determination issued to the city in Open Records Letter No. 2006-14726 (2006). *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). You also state the city will redact social security numbers under section 552.147(b) of the Government Code.<sup>1</sup> You claim the submitted information is excepted from disclosure pursuant to section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 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 as follows:

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<sup>1</sup>*See* Gov't Code § 552.147(b) (governmental body may redact living person's social security number from public release without necessity of requesting attorney general's decision under Act); Open Records Decision No. 673 (2001) (previous determinations).

(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 assert the submitted information is confidential under section 261.201. *See id.* § 261.001 (defining “abuse” and “neglect” for purposes of ch. 261); *see also id.* § 101.003(a) (defining “child” for purposes of this section as person under 18 years of age who is not and has not been married or who has not had disabilities of minority removed for general purposes). We note, however, the submitted information pertains to an investigation of an assault in which the alleged victim is an adult. Consequently, we find you have failed to adequately demonstrate how this information was used or developed in an investigation under chapter 261 of the Family Code. We therefore determine section 261.201 is not applicable in this instance. Accordingly, the city may not withhold the submitted information under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be demonstrated. *Id.* at 681-82. The types of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. Upon review, we conclude a portion of the submitted information is highly intimate or embarrassing and of no legitimate public concern. Thus, the city must withhold the information we have marked under section 552.101 in conjunction with common-law privacy.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by an agency of this state, another state, or country is excepted from public release. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov’t

Code § 552.130). Accordingly, the city must withhold the information we have marked under section 552.130 of the Government Code.

In summary, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy and the marked information under section 552.130 of the Government Code. The city must release the remaining information.<sup>2</sup>

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](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,



Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/dls

Ref: ID# 436650

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We note the requestor has a special right of access to some of the information being released. *See* Gov't Code § 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests). Therefore, if the city receives another request for this particular information from a different requestor, then the city should again seek a ruling from this office.