



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 2, 2012

Mr. Stephen A. Cumbie
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2012-15651

Dear Mr. Cumbie:

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# 468444 (City of Fort Worth PIR No. W019031).

The City of Fort Worth (the "city") received a request for information pertaining to a specified incident. You indicate the city will redact the originating telephone numbers of a 9-1-1 caller you have marked under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code pursuant to the previous determination issued to the city in Open Records Letter No. 2011-15641 (2011) and the Texas motor vehicle record information you have marked in accordance with section 552.130(c) of the Government Code.¹ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.² We have considered the exception you claim and reviewed the submitted information.

¹Open Records Letter No. 2011-15641 is a previous determination issued to the city authorizing it to withhold, under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code, an originating telephone number of a 9-1-1 caller furnished to the city by a service supplier established in accordance with chapter 772 of the Health and Safety Code without the necessity of requesting an attorney general decision. Section 552.130 allows a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3), such as driver's license numbers, without the necessity of seeking a decision from the attorney general. Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *Id.* § 552.130(d), (e).

²Although you also raise section 552.108 of the Government Code, you have not submitted arguments explaining how this exception applies to the submitted information. Therefore, we presume you no longer assert this exception. *See* Gov't Code §§ 552.301, 552.302.

Section 552.101 of the Government Code excepts from public 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 protected by other statutes, including section 58.007 of the Family Code. Section 58.007(c) reads as follows:

Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

Fam. Code § 58.007(c). For purposes of section 58.007, "child" means a person who is ten years of age or older and under seventeen years of age at the time of the reported conduct. *Id.* § 51.02(2). The submitted incident report involves suspects who are under the age of ten. *See id.* Thus, we conclude you have not established the submitted information is confidential under section 58.007 of the Family Code, and the city may not withhold it under section 552.101 on that ground.

Section 552.101 of the Government Code also encompasses section 261.201(a) of the Family Code, which provides as follows:

[T]he 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:

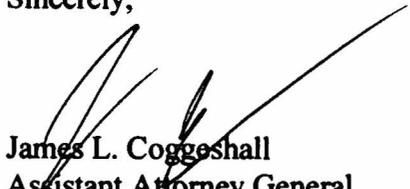
- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Id. § 261.201(a). You assert the requested information was used or developed in an investigation under chapter 261. *See id.* § 101.003(a) (defining “child” for purposes of section 261.201). However, upon review, we find you have not established the information is within the scope of section 261.201 of the Family Code. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of section 261.201 of Family Code). Thus, the submitted information is not confidential under section 261.201, and the city may not withhold it under section 552.101 on that ground. Accordingly, the city must release the information at issue to the requestor.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

Ref: ID# 468444

Enc. Submitted documents

c: Requestor
(w/o enclosures)