



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 16, 2012

Ms. Michelle M. Kretz
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2012-18537

Dear Ms. Kretz:

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# 471272 (City of Fort Worth PIR No. W019802).

The City of Fort Worth (the "city") received a request for a specified incident report. You state the city will make redactions under sections 552.130 and 552.147 of the Government Code.¹ You claim the submitted 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.

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 other statutes make confidential. Section 261.201 provides in relevant part:

¹Section 552.130(c) of the Government Code authorizes a governmental body to redact the information described in subsections 552.130(a)(1) and (3) without the necessity of requesting a decision from this office. See Gov't Code § 552.130(c); see also *id.* § 552.130(d)-(e) (requestor may appeal governmental body's decision to withhold information under section 552.130(c) to attorney general, and governmental body withholding information pursuant to section 552.130(c) must provide notice to requestor). Section 552.147 permits a governmental body to redact the social security number of a living person without requesting a decision from this office. See *id.* § 552.147(b).

(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, other than the [Texas Department of Family and Protective Services] 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.

(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:

(1) any personally identifiable information about a victim or witness under 18 years of age unless that victim or witness is:

(A) the child who is the subject of the report; or

(B) another child of the parent, managing conservator, or other legal representative requesting the information;

...

(3) the identity of the person who made the report.

Fam. Code § 261.201(a), (k), (l)(1), (3). You assert the submitted information was used or developed in an investigation of alleged or suspected child abuse or neglect under chapter 261 of the Family Code. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of section 261.201 of Family Code); *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 the disabilities of minority removed for general purposes). Upon review, we agree the submitted information is within the scope of section 261.201(a). You inform us, however, that the requestor, who is not alleged to have committed the suspected abuse, may be a parent, managing conservator, or other legal representative of the child victim. Therefore, pursuant to section 261.201(k), the submitted information may not be withheld from the requestor on the basis of section 261.201(a) if she is the child’s parent, managing conservator, or other legal representative. *See id.* § 261.201(k). Thus, we must rule conditionally. If the requestor is not the child’s parent, managing conservator, or other legal representative, then 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. But if the requestor is the child’s parent, managing conservator, or other legal representative, the submitted information may not be withheld under section 552.101 on the basis of section 261.201(a) and must be released pursuant to section 261.201(k) of the Family Code. However, we understand that you seek to withhold the information you have marked in red as information that identifies other child witnesses and an individual who made the report of abuse. *See id.* § 261.201(l)(1), (3). Therefore, the city must withhold the identifying information of the reporting party, which we have marked, under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code. However, the remaining information you have marked does not consist of identifying information of child witnesses or a reporting party for purposes of section 261.201(l). Accordingly, the city may not withhold the remaining information you have marked pursuant to section 261.201(l)(1) or 261.201(l)(3) of the Family Code.

In summary, if the requestor is not the child’s parent, managing conservator, or other legal representative, then 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. If the requestor is the child’s parent, managing conservator, or other legal representative, the submitted information may not be withheld under section 552.101 on the basis of section 261.201(a). In that situation, the city must withhold the identity of the reporting party we have marked under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code and release the remaining information pursuant to section 261.201(k) of the Family Code.²

²We note the requestor may have a special right of access to the information being released in this instance. *See* Fam. Code § 261.201(k). Because such information is confidential with respect to the general public, if the city receives another request for this information from a different requestor, the city must again seek a ruling from this office.

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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/tch

Ref: ID# 471272

Enc. Submitted documents

cc: Requestor
(w/o enclosures)