



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 29, 2014

Ms. Linda Hight
Records Coordinator
City of Cleburne
P.O. Box 677
Cleburne, Texas 76033

OR2014-17290

Dear Ms. Hight:

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# 537727.

The City of Cleburne (the "city") received a request for a specified incident report. 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 public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 261.201 of the Family Code. Section 261.201 provides, in part, as follows:

(a) Except as provided by Section 261.203, the 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.

...

(h) This section does not apply to an investigation of child abuse or neglect in a home or facility regulated under Chapter 42, Human Resources Code.

Fam. Code § 261.201(a), (h). You contend the submitted information is confidential under section 261.201(a). In this instance, however, the information at issue is related to an investigation of alleged abuse or neglect that occurred in a child care facility regulated by the Texas Department of Family and Protective Services under chapter 42 of the Human Resources Code at the time of the incident in question. Section 261.201 does not apply to an investigation of alleged or suspected child abuse or neglect in a home or facility regulated under chapter 42. *Id.* § 261.201(h). Therefore, section 261.201(a) of the Family Code is not applicable to the submitted information, and the city may not withhold the submitted information under section 552.101 of the Government Code on that basis.

Section 552.101 also encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person and (2) 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 satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. We note the doctrine of common-law privacy generally protects the identifying information of juvenile victims of abuse and neglect. *See* Open Records Decision No. 394 (1983); *cf.* Fam. Code § 261.201. Upon review, we find the information we marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. As no exceptions to disclosure are raised for the remaining information, it must be released.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Lauren Dahlstein
Assistant Attorney General
Open Records Division

LMD/som

Ref: ID# 537727

Enc. Submitted documents

c: Requestor
(w/o enclosures)