



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 10, 2009

Ms. P. Armstrong  
Assistant City Attorney  
City of Dallas  
1400 South Lamar  
Dallas, Texas 75215

OR2009-03118

Dear Ms. Armstrong:

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# 336793 (DPD Request 2008-8814).

The Dallas Police Department (the "department") received a request for several specified police reports. You state you have released most of the requested reports. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.<sup>1</sup>

Initially, we note that the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2006-11035 (2006). In this ruling, we concluded that, with the exception of basic information, the department may withhold the submitted report under section 552.108 of the Government Code. Thus, to the extent the submitted information contains the same information we previously ruled upon, we conclude that, as we have no indication that the law, facts, and

---

<sup>1</sup>We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach and, therefore, does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

circumstances on which the prior ruling was based have changed, the department may continue to rely on that ruling as a previous determination and withhold or release the requested information in accordance with Open Records Letter No. 2006-11035. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). To the extent the requested information is not encompassed by the previous ruling or circumstances have changed, we will address the submitted arguments.

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 section encompasses information protected by other statutes, including section 261.201 of the Family Code. Section 261.201(a) provides as follows:

(a) 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.

Fam. Code § 261.201(a). You claim the submitted information is subject to section 261.201 of the Family Code. *See id.* § 261.001 (defining "abuse" and "neglect" for purposes of chapter 261 of the 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). In this instance, however, the submitted information concerns the aggravated assault of an adult. Although the submitted information contains references to a child abuse investigation, you do not explain, nor do the documents reflect, that the department actually used or developed the submitted information in an investigation under chapter 261. Thus, you have failed to demonstrate that the submitted information is confidential in its entirety under section 261.201(a)(2) of the Family Code. However, the references to the child abuse investigation are within the scope of chapter 261 of the Family Code. Therefore, the information we have marked is

confidential under section 261.201(a)(1) and must be withheld under section 552.101.<sup>2</sup> The remaining information in the submitted report is not confidential under section 261.201 and may not be withheld under section 552.101 on that basis.

You claim the remaining information is confidential under common-law privacy, which is also encompassed by section 552.101 of the Government Code. Common-law privacy 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). The type 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 find that you have failed to demonstrate how any of the remaining information constitutes highly intimate or embarrassing information of no legitimate concern to the public. Thus, none of the remaining information may be withheld under section 552.101 in conjunction with common-law privacy.

You assert that some of the remaining information, which you have marked, is excepted from disclosure under section 552.130 of the Government Code. Section 552.130 excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state. Gov't Code § 552.130. The department must withhold the Texas motor vehicle record information you have marked under section 552.130.

In summary, to the extent the submitted information contains the same information previously ruled upon, and the law, facts, and circumstances on which the prior ruling was based have not changed, the department may continue to rely on Open Records Letter No. 2006-11035 and withhold or release the information accordingly. To the extent the prior ruling does not apply, the department must withhold the information we have marked pursuant to section 552.101 of the Government Code in conjunction with section 261.201

---

<sup>2</sup>As our ruling for this information is dispositive, we need not address your remaining argument against disclosure of this information.

of the Family Code.<sup>3</sup> The department must withhold the information you have marked under section 552.130 of the Government Code. The remaining information 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.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 at (512) 475-2497.

Sincerely,



Paige Savoie  
Assistant Attorney General  
Open Records Division

PS/eeg

Ref: ID# 336793

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

---

<sup>3</sup>We note that a parent of a child who is the subject of reported abuse or neglect may have a right of access to certain abuse and neglect records maintained by the Texas Department of Family and Protective Services ("DFPS"). Section 261.201(g) of the Family Code provides that DFPS, upon request and subject to its own rules, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect information concerning the reported abuse or neglect that would otherwise be confidential under this section if [DFPS] has edited the information to protect the confidentiality of the identity of the person who made the report and any other person whose life or safety may be endangered by the disclosure. Fam. Code §.261.201(g).