



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 28, 2009

Mr. C. Patrick Phillips
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2009-13591

Dear Mr. Phillips:

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# 356429 (Fort Worth PIR No. 4528-09).

The City of Fort Worth (the "city") received a request for a specified police report. You claim that 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.¹

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 that other statutes make confidential. You raise section 552.101 in conjunction with section 261.201 of the Family Code, which provides in part:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for

¹You inform us that the city has redacted a social security number from the submitted documents pursuant to section 552.147(b) of the Government Code. Section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

purposes consistent with [the Family 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 [chapter 261 of the Family Code] 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 [chapter 261 of the Family Code] or in providing services as a result of an investigation.

Act of April 10, 1995, 74th Leg., R.S., ch. 20, § 1, sec. 261.201, 1995 Tex. Gen. Laws 113, 262, *amended by* Act of June 1, 2009, 81st Leg., R.S., ch. 779, §1, 2009 Tex. Sess. Law Serv. 1965, 1965-66 (Vernon) (to be codified as an amendment to Fam. Code § 261.201(a)); *see also* Fam. Code § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Fam. Code ch. 261). You contend the submitted report is confidential in its entirety under section 261.201. We note, however, this report is related to an investigation of an assault causing bodily injury. Thus, this report is not confidential under section 261.201(a)(2) of the Family Code and may not be withheld in its entirety under section 552.101 of the Government Code. However, we note that portions of report, which we have marked, pertain to a report of alleged or suspected child abuse or neglect. *See* Fam. Code § 261.201(a)(1). Accordingly, the information we have marked is within the scope of section 261.201 of the Family Code. As you do not indicate that the city has adopted a rule that governs the release of information encompassed by section 261.201(a), we assume that no such rule exists. Given that assumption, we conclude that the city must withhold the marked information under section 552.101 of the Government Code in conjunction with section 261.201(a)(1) of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (addressing predecessor statute).

We next note you have redacted Texas motor vehicle record information pursuant to previous determinations issued to the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007). In those rulings, we determined the city is allowed to withhold, among other things, Texas motor vehicle record information under section 552.130 of the Government Code. We also stated in those rulings that because section 552.130 protects the privacy of the individual to whom the information relates, a person’s section 552.130 information must be released to that person or that person’s authorized representative. *See* Gov’t Code § 552.023 (person or person’s authorized representative has special right of access to information that is protected by laws intended to protect person’s privacy). You have redacted the requestor’s Texas motor vehicle record information. The requestor has a right of access under section 552.023 to her own Texas motor vehicle record information and it may not be withheld under section 552.130. However, the Texas motor vehicle record

information not belonging to the requestor must be withheld under section 552.130 of the Government Code.

In summary, the city must withhold the information we marked under section 552.101 in conjunction with section 261.201(a)(1) of the Family Code. The city must also withhold the Texas motor vehicle record information not belonging to the requestor under section 552.130 of the Government Code. As you raise no other arguments against the disclosure of 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.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,



Matt Entsminger
Assistant Attorney General
Open Records Division

MRE/dls

Ref: ID# 356429

Enc. Submitted documents

c: Requestor
(w/o enclosures)