



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 19, 2009

Ms. LeAnn M. Quinn
City Secretary
City of Cedar Park
600 North Bell Boulevard
Cedar Park, Texas 78613

OR2009-14713

Dear Ms. Quinn:

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# 358624 (City Reference No. 09-290).

The Cedar Park Police Department (the "department") received a request for a specified person's personnel file and the initial report on a specified death. You state that the department has released some of the requested information pertaining to the specified death. You indicate that the department referred the request to the civil service director for the City of Cedar Park (the "city"), and you inform us that the city will release the specified person's civil service file in accordance with section 143.089(a) of the Local Government Code. You also state that the city will redact personal information of a peace officer under section 552.117 of the Government Code.¹ You claim that the remainder of the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that you have submitted the department's internal personnel file pertaining to the specified person, which is the exact same information that was the subject of a previous request for information, in response to which this office issued Open Records Letter

¹The previous determination issued in Open Records Decision No. 670 (2001) authorizes a governmental body to withhold the home addresses and telephone numbers, personal cellular telephone and pager numbers, social security numbers, and family member information of its peace officers under section 552.117(a)(2) without the necessity of requesting an attorney general decision.

No. 2009-14627 (2009). In Open Records Letter No. 2009-14627, we ruled that the department must withhold the department's internal personnel file pertaining to the specified person under section 552.101 of the Government Code in conjunction with section 143.089(g) of the Local Government Code. We conclude that, as we have no indication that the law, facts, and circumstances on which the prior ruling was based have changed, the department must continue to rely on that ruling as a previous determination and withhold the department's internal personnel file pertaining to the specified person in accordance with Open Records Letter No. 2009-14627.² 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 prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

Next, we note that the remaining information pertains to a child abuse investigation under chapter 261 of the Family Code. Section 552.101 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. Section 261.201 of the Family Code provides as follows:

(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.

Fam. Code § 261.201(a). Upon review, we find that the remaining information pertains to an investigation by the department of alleged or suspected child abuse and consists of files, reports, records, communications, and working papers used or developed in the investigation. See *id.* § 261.001(1)(A) (defining "abuse" 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). Thus, the remaining information is

²As our determination is dispositive with respect to the personnel information subject to the previous ruling, we need not address your arguments against the disclosure of this information. Additionally, as this determination disposes of your claim under section 552.130 of the Government Code, we do not address that exception.

within the scope of section 261.201 of the Family Code. You have not indicated that the department has adopted a rule that governs the release of this type of information. We therefore assume no such rule exists. Given that assumption, the remaining information is confidential in its entirety pursuant to section 261.201 of the Family Code and must be withheld under section 552.101 of the Government Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). We note that basic information is not released when information is being withheld under section 552.101 in conjunction with section 261.201 of the Family Code. *See id.* As our ruling is dispositive, we need not address your remaining arguments against disclosure of the information subject to section 261.201.

In summary, the department must continue to rely on Open Records Letter No. 2009-14627 as a previous determination and withhold the department's internal personnel file pertaining to the specified person in accordance with that ruling. The department must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 261.201 of the Government Code.

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,



Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/jb

Ref: ID# 358624

Enc. Submitted documents

c: Requestor
(w/o enclosures)