



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 19, 2013

Ms. Cheryl K. Byles
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2013-04526

Dear Ms. Byles:

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# 481589 (City of Fort Worth PIR No. W022632).

The City of Fort Worth (the "city") received a request for the police report and investigation file pertaining a specified incident. 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.

Initially, we note some of the requested information was the subject of a previous request for information, as a result of which this office issued Open Records Letter Ruling No. 2012-03715 (2012). In that ruling, we held the submitted information must be withheld under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. As we have no indication the law, facts, or circumstances upon which the prior ruling was based have changed, to the extent any of the information responsive to the instant request is identical to the information previously requested and ruled upon by this office, we find the city must continue to rely on Open Records Letter No. 2012-03715 as a previous determination and withhold the requested information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, 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). However, to the extent the submitted information is not subject to Open Records Letter No. 2012-03715, we will address your arguments under section 552.101 of the Government Code.

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. Section 552.101 encompasses information protected by other statutes, such as section 261.201 of the Family Code. Section 261.201 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 the submitted information was used or developed in an investigation of child endangerment. *See id.* § 261.001(1), (4) (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). Accordingly, we find this information falls within the scope of section 261.201(a). You have not indicated that the city's police department, which conducted the investigation, has adopted a rule that governs the release of this type of information. Therefore, we assume that no such regulation exists. Given that assumption, we conclude the submitted information is confidential under section 261.201(a) of the Family Code, and the city must withhold it in its entirety under section 552.101 of the Government Code. *See* Open Records Decision No. 440 at 2 (1986) (addressing predecessor statute).¹

In summary, to the extent any of the information responsive to the instant request is identical to the information previously requested and ruled upon by this office, the city must continue to rely on Open Records Letter No. 2012-03715 as a previous determination and withhold the requested information in accordance with that ruling. The city must withhold the

¹As our ruling is dispositive, we need not address your arguments against disclosure.

remaining information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family 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,

A handwritten signature in black ink, appearing to be 'Nneka Kanu', written over the word 'Sincerely,'.

Nneka Kanu
Assistant Attorney General
Open Records Division

NK/tch

Ref: ID# 481589

Enc. Submitted documents

c: Requestor
(w/o enclosures)

