



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 11, 2014

Ms. Rebecca Hendricks Brewer
Counsel for the City of Frisco
Abernathy, Roeder, Boyd & Joplin, P.C.
P.O. Box 1210
McKinney, Texas 75070-1210

OR2014-02542

Dear Ms. Brewer:

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# 513801.

The Frisco Police Department (the "department"), which you represent, received a request for information pertaining to a specified arrest. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.107, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You state a portion of the requested information was the subject of a previous request for a ruling, in response to which this office issued Open Records Letter No. 2013-13712 (2013). In this prior ruling, we ruled the submitted information must be withheld under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. You state there has been no change in the law, facts, or circumstances on which the previous ruling was based. Therefore, for the requested information that is identical to the information previously requested and ruled upon by this office, we conclude the department must rely on Open Records Letter No. 2013-13712 as a previous determination and withhold the identical information in accordance with it.¹ See Open Records Decision No. 673 (2001)

¹Because our ruling is dispositive for this information, we do not address your remaining arguments against its disclosure.

(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 consider the exceptions you raise for the requested information not encompassed by the prior ruling.

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. Section 261.201(a) 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). You represent the information at issue was used or is being used in an investigation by the Texas Department of Family and Protective Services (“DFPS”) under chapter 261 of the Texas Family Code. *See id.* § 261.001 (defining “abuse” and “neglect” for purposes of Fam. Code ch. 261); *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). Based on this representation, we agree the information at issue is within the scope of section 261.201(a) of the Family Code. Therefore, the information at issue is confidential pursuant to section 261.201 of the Family Code, and the department must withhold this information in its entirety under section 552.101 of the Government Code.² *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

In summary, the department must rely on Open Records Letter No. 2013-13712 as a previous determination and withhold the requested information that is identical to the information previously requested and ruled upon by this office. The department must withhold the

²As our ruling is dispositive, we need not consider your remaining arguments against disclosure of the submitted information.

remaining requested 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.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,

A handwritten signature in black ink, appearing to read "Michelle R. Garza", with a long horizontal line extending to the right.

Michelle R. Garza
Assistant Attorney General
Open Records Division

MRG/som

Ref: ID# 513801

Enc. Submitted documents

c: Requestor
(w/o enclosures)