



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 2, 2015

Mr. Guillermo Trevino
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2015-13355

Dear Mr. Trevino:

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# 570900 (Fort Worth PIR# W042126).

The Fort Worth Police Department (the "department") received a request for information pertaining to a specified incident. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you state, and we agree, some of the submitted information, which you have marked, is not responsive to the instant request because it is not related to the specified incident. This ruling does not address the public availability of any information that is not responsive to the request and the department is not required to release such information in response to this request.

Next, you inform us some of the requested information was the subject of two previous requests for information, in response to which this office issued Open Records Letter Nos. 2015-04351 (2015) and 2015-06446 (2015). In Open Records Letter No. 2015-04351, we determined the City of Fort Worth (the "city") must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. In Open Records Letter No. 2015-06446, we addressed the identical information at issue in Open Records Letter No. 2015-04351 and ruled, with the exception

of basic information, which must be released, the city may withhold the information at issue under section 552.108(a)(1) of the Government Code. We have no indication the law, facts, or circumstances on which Open Records Letter No. 2015-04351 was based have changed. Accordingly, the department must continue to rely on Open Records Letter No. 2015-04351 as a previous determination and withhold the identical information in accordance with that ruling. *See* Open Records Decision No. 673 at 6-7 (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 information is or is not excepted from disclosure). However, in Open Records Letter No. 2015-06446, the requestor was the mother of the child victims listed in the information at issue; accordingly, she had a right of access to the information at issue under section 261.201(k) of the Family Code. *See* Family Code § 261.201(k). The current requestor is not a parent, managing conservator, or other legal representative of a child victim listed in the submitted information. Therefore, we find the facts or circumstances on which Open Records Letter No. 2015-06446 was based have changed. Thus, the department may not rely on Open Records Letter No. 2015-06446 as a previous determination and withhold or release any of the requested information in accordance with that ruling. *See* ORD 673 at 6-7. We will next consider your arguments against disclosure of the responsive information not at issue in Open Records Letter No. 2015-04351.

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 section 261.201(a) of the Family Code, which provides, in relevant part:

(a) Except as provided by Section 261.203, the 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 responsive information was used or developed in an investigation of alleged child abuse. *See id.* § 261.001 (defining “abuse” for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining “child” for purposes of chapter 261). You have not indicated the department has adopted a rule

governing the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption, the responsive information is confidential under section 261.201 of the Family Code and the department must withhold it under section 552.101 of the Government Code.¹

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,



Brian E. Berger
Assistant Attorney General
Open Records Division

BB/akg

Ref: ID# 570900

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we do not address your remaining arguments against disclosure of this information.