



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 30, 2017

Ms. Teresa L. Presley
Record Manager
City of Frisco
7200 Stonebrook Parkway
Frisco, Texas 75034

OR2017-06606

Dear Ms. Presley:

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# 651415 (Internal Ref. No. P015298-011017).

The City of Frisco (the "city") received a request for a specified incident report. 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.

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, such as section 261.201 of the Family Code. Section 261.201 provides, in relevant part, 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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Department of Family and Protective Services] or the Texas Juvenile Justice Department, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect .

Fam. Code § 261.201(a), (k). You raise section 552.101 in conjunction with section 261.201 for the submitted information. The submitted information pertains to an investigation by the city's police department of alleged or suspected child abuse or neglect and falls within the scope of section 261.201 of the Family Code. Further, you state, and the supporting documentation reflects, the submitted information was used or developed in an investigation by the Child Protective Services Division of the Department of Family and Protective Services ("CPS") of alleged or suspected child abuse or neglect. *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 chapter 261). Thus, we find the submitted information is subject to section 261.201(a) of the Family Code. In this instance, the requestor is the authorized representative of one of the parents of some of the child victims listed in the information at issue. However, we note the requestor's client is alleged to have committed the alleged or suspected abuse or neglect. Thus, the requestor does not have a right of access to the information at issue under section 261.201(k). *See id.* § 261.201(k). Consequently, the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.¹ *See Open Records Decision No. 440 at 2 (1986) (predecessor statute).*

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.

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

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 "Cole Hutchison". The signature is written in a cursive style with a horizontal line through the middle of the name.

Cole Hutchison
Assistant Attorney General
Open Records Division

CH/sb

Ref: ID# 651415

Enc. Submitted documents

c: Requestor
(w/o enclosures)