



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 14, 2017

Ms. Jhoslyn Y. Hood
Assistant City Attorney
Office of the City Attorney
City of Fort Worth
200 Texas Street, 3rd Floor
Fort Worth, Texas 76102

OR2017-13137

Dear Ms. Hood:

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# 662071 (City PIR No. W060317-032417).

The City of Fort Worth (the "city") received a request for all police reports and call sheets pertaining to two named individuals at a specified address during a certain time period. You claim some of 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.

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, 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 Exhibit C-1 was used or developed in an investigation of alleged or suspected child abuse by the city's police department. *See id.* §§ 101.003(a) (defining "child" for purposes of section 261.201 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), 261.001(1) (defining "abuse" for purposes of chapter 261 of the Family Code). Thus, this information is generally confidential under section 261.201.

We note the requestor is a representative of the Texas Department of Family and Protective Services ("DFPS"). Section 261.105(a) provides "[a]ll reports received by a local or state law enforcement agency that allege abuse or neglect by a person responsible for a child's care, custody, or welfare shall be referred immediately to [DFPS]." *See id.* § 261.105(a). In this instance, the information at issue indicates the person suspected of child abuse was responsible for the child's care, custody, or welfare. *See id.* § 261.001(5)(B) (person responsible for child's care, custody, or welfare includes a member of the child's family or household as defined by chapter 71 of the Family Code); *see also id.* § 71.005 (household is a unit composed of persons living together in the same dwelling, without regard to whether they are related to each other). Accordingly, section 261.105(a) is applicable, and the confidentiality of section 261.201(a) does not apply in this instance. *See* Attorney General Opinion No. GA-0879 (2011) (law enforcement agency is required to furnish information about alleged child abuse or neglect by person responsible for child's care, custody, or welfare to DFPS). Therefore, the city may not withhold the submitted information from this requestor under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. As you raise no other exceptions to disclosure for Exhibit C-1, the city must release it pursuant to section 261.105(a) of the Family Code.

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate or embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987).

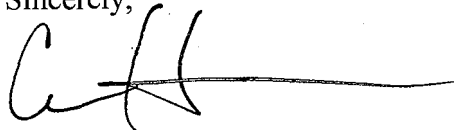
A compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual's privacy interest, court recognized distinction

between public records found in courthouse files and local police stations and compiled summary of information and noted that individual has significant privacy interest in compilation of one's criminal history). Moreover, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. However, information that refers to an individual solely as a victim, witness, or involved person does not implicate the privacy interest of the individual and may not be withheld under section 552.101 on that basis. We note Exhibit C-2 does not depict the named individuals as suspects, arrestees, or criminal defendants. Thus, this information is not part of a criminal history compilation protected by common-law privacy and the city may not withhold it under section 552.101 of the Government Code in conjunction with common-law privacy on that basis. Nevertheless, we find the information we have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Consequently, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, upon review, we find you have not demonstrated the remaining information is highly intimate or embarrassing and of no legitimate public interest. Accordingly, the city may not withhold the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy. As you raise no other exceptions, the city must release the remaining information.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,



Cole Hutchison
Assistant Attorney General
Open Records Division

CH/som

¹Because the requestor has a special right of access to the information being released in Exhibit C-1, if the city receives another request for this information from an individual other than this requestor, the city must again seek a ruling from this office. See Fam. Code § 261.105(a).

Ref: ID# 662071

Enc. Submitted documents

c: Requestor
(w/o enclosures)