



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 11, 2022

Ms. Destiney-Ariel Hicks
Assistant City Attorney
City of Fort Worth
200 Texas Street, 3rd Floor
Fort Worth, Texas 76102

OR2022-31128

Dear Ms. Hicks:

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# 977000 (ORR# E004060).

The Fort Worth Police Department (the "department") received a request for records involving a named individual. The department claims the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions the department claims and reviewed the submitted information.

The requestor is a representative of the Adult Protective Services Division ("APS") of the Texas Department of Family and Protective Services (the "DFPS"). Under chapter 48 of the Human Resources Code, APS's duties include the investigation of abuse, neglect, or exploitation in the provision of services to a person with a disability. *See* Hum. Res. Code §§48.151, .152. Section 48.154(a) of the Human Resources Code provides as follows:

[The DFPS] or another state agency, as appropriate, shall have access to any records or documents, including client-identifying information, financial records, and medical and psychological records, necessary to the performance of [DFPS]'s or state agency's duties under this chapter. The duties include but are not limited to the investigation of abuse, neglect, or exploitation or the provisions of services to an elderly person or person with a disability. A person, agency, or institution that has a record or document that [DFPS] or state agency needs to perform its duties under this chapter shall, without unnecessary delay, make the record or document available to [DFPS] or state agency that requested the record or document.

Id. § 48.154(a). The requestor states APS seeks the records at issue as part of an investigation. Consequently, we conclude APS requires this information in order to perform its duties under chapter 48 of the Human Resources Code, which include investigation of abuse, neglect, or exploitation of an elderly or disabled person. *See id.* §§ 48.151, .152, .154(a). Thus, the requestor has a right of access to the information pursuant to section 48.154. We note a statutory right of access prevails over common-law privacy, as well as over the general exceptions in the Act. *See Collins v. Tex Mall, L.P.*, 297 S.W.3d 409, 415 (Tex. App.—Fort Worth 2009, no pet.) (statutory provision controls and preempts common law only when statute directly conflicts with common-law principle); *CenterPoint Energy Houston Elec. LLC v. Harris County Toll Rd. Auth.*, 436 F.3d 541, 544 (5th Cir. 2006) (common law controls only where there is no conflicting or controlling statutory law); *see also* Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exception to disclosure under the Act). Accordingly, the department may not withhold any portion of the submitted information from the requestor under section 552.101 of the Government Code in conjunction with common-law privacy or under section 552.108 of the Government Code. Accordingly, the department must release the submitted information in its entirety to this requestor pursuant to section 48.154 of the Human Resources 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/pt

Ref: ID# 977000

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹ Because the requestor has a special right of access to the information being released, the department must again seek a decision from this office if it receives another request for the same information from another requestor.