



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 31, 2010

Ms. Yvette Aguilar
Assistant City Attorney
City of Corpus Christi
P. O. Box 9277
Corpus Christi, Texas 78469-9277

OR2010-04506

Dear Ms. Aguilar:

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# 375345.

The Corpus Christi Police Department (the "department") received two requests from the same requestor for two specified police reports. You claim portions of the submitted information are 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. Section 552.101 encompasses information protected by other statutes, including section 261.201 of the Family Code, which provides as follows:

(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.

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Department of Family and Protective Services] or the Texas Youth Commission, 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.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

(2) any information that is excepted from required disclosure under [the Act], or other law; and

(3) the identity of the person who made the report.

Fam. Code § 261.201(a), (k), (l). You state report numbers 93-037214 and 0901290050 were used or developed in investigations of alleged or suspected child abuse. *See id.* § 261.001(1)(E) (defining “abuse,” for purposes of Fam. Code ch. 261, as including offense of indecency with a child under Penal Code § 21.11); *see also* Penal Code § 21.11 (defining “child” for purposes of section 21.11 as a minor younger than 17 years of age). Upon review, we agree report number 93-037214 is confidential under section 261.201. Accordingly, the department must withhold report number 93-037214 in its entirety under section 552.101. We also agree report number 0901290050 is generally confidential under section 261.201. However, as you acknowledge, the requestor is the mother of the child victim listed in this report, and the mother is not alleged to have committed the suspected abuse. In this instance, the department may not withhold report number 0901290050 from this requestor under section 261.201(a). Fam. Code § 261.201(k).

We note, and you acknowledge, section 261.201(1)(3) provides that before a parent can copy and inspect a record of a child under section 261.201(k), the identity of the party who made the report must be redacted. *Id.* § 261.201(1)(3). Accordingly, the department must withhold the reporting party’s identity, which you have marked, under section 552.101 in conjunction with section 261.201(1)(3). We also note section 261.201(1)(2) states any information that is excepted from required disclosure under the Act or other law may still be withheld from disclosure. *Id.* § 261.201(1)(2). Thus, because you assert portions of the remaining information in report number 0901290050 are excepted under section 552.108 of the Government Code, we will address your argument under this section.

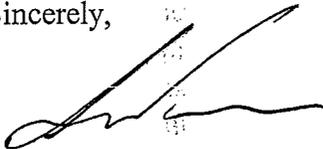
Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the information at issue relates to a closed investigation that did not result in a conviction or deferred adjudication. Accordingly, we agree the department may withhold the information you have marked under section 552.108(a)(2).

In summary, the department must withhold report number 93-037214 under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. The department must also withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code. The department may withhold the information you have marked under section 552.108(a)(2) of the Government Code. The remainder of report number 0901290050 must be released.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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

¹Because the requestor has a special right of access to information that would ordinarily be confidential, the department must again seek a decision from this office if it receives another request for the same information from a different requestor.

Ref: ID# 375345

Enc. Submitted documents

c: Requestor
(w/o enclosures)