



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 5, 2010

Ms. Yvette Aguilar  
Assistant City Attorney  
City of Corpus Christi  
Police Legal Advisor  
321 John Sartain  
Corpus Christi, Texas 78401

OR2010-06482

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# 378870.

The Corpus Christi Police Department (the "department") received a request for a specified police report. You state you have released some of the requested information. 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 section 261.201 of the Family Code, which provides in 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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas 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 assert the submitted information consists of files, reports, records, communications, audiotapes, videotapes, or working papers used or developed in investigations under chapter 261 of the Family Code. *See id.* § 261.001 (defining “abuse” and “neglect” for purposes of Fam. Code ch. 261); *see also id.* § 101.003(a) (defining “child” for purposes of this section 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). Based on your representations, we agree this information is within the scope of section 261.201. However, as you acknowledge, the requestor is the managing conservator of the child victim listed in the report, and is not alleged to have committed the suspected abuse. In this instance, section 261.201(a) may not be used to withhold the submitted report from this requestor. *Id.* § 261.201(k).

We note, and you acknowledge, section 261.201(l)(3) provides that before a managing conservator can copy and inspect a record of a child under 261.201(k), the identity of the party who made the report must be redacted. *Id.* § 261.201(l)(3). Accordingly, the department must withhold the reporting party’s identity under section 552.101 in conjunction with section 261.201(l)(3). Further, section 261.201(l)(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(l)(2). Thus, because you also assert portions of the remaining

information are excepted under section 552.108 of the Government Code, we will address your argument under this section.

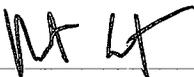
Section 552.108(a)(2) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(a)(2). Section 552.108(a)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in a conviction or a deferred adjudication. A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A). You assert the information you have marked pertains to a closed investigation that did not result in conviction or deferred adjudication. Upon review, we agree the department may withhold the information you have marked under section 552.108(a)(2) of the Government Code.

In summary, the department must withhold the reporting party’s identity 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 remaining information must be released to this requestor.

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](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,



Matt Entsminger  
Assistant Attorney General  
Open Records Division

MRE/rl

Ref: ID# 378870

Enc. Submitted documents

c: Requestor  
(w/o enclosures)