



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 30, 2010

Ms. Martha T. Williams
Olson & Olson, L.L.P.
Wortham Tower, Suite 600
727 Allen Parkway
Houston, Texas 77019

OR2010-14931

Dear Ms. Williams:

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# 397188.

The City of Friendswood (the "city"), which you represent, received a request for police reports pertaining to two specified dates. You state the city has released or will release the "front page" information to the requestor. 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 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. Section 261.201(a) of the Family Code provides as follows:

(a) Except as provided by Section 261.203, the following information is confidential, is not subject to public release under Chapter 552, Government Code, 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). Subsection 261.201(a)(1) of the Family Code requires the report be of an “alleged or suspected abuse or neglect” of a child. *Id.* § 261.201(a)(1). Subsection 261.201(a)(2) further requires the report be “used or developed in an investigation” of alleged or suspected abuse or neglect of a child. *Id.* § 261.201(a)(2). In this instance, the requested documents do not pertain to an investigation of alleged or suspected abuse or neglect of a child. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Family Code ch. 261). Furthermore, there is no indication they were used or developed in an investigation of child abuse or neglect. Therefore, the documents are not within the scope of section 261.201 of the Family Code and the city may not withhold them on that basis.

We note the submitted information contains breath test results of the arrestee’s blood alcohol content and urine test results. Section 724.018 of the Transportation Code states, “[o]n the request of a person who has given a specimen at the request of a peace officer, full information concerning the analysis of the specimen shall be made available to the person or the person’s attorney.” Transp. Code § 724.018. In this instance, the requestor is the arrestee in the submitted information, and the requestor gave her specimens at the request of a peace officer. Accordingly, the city must release the specimen results, which we have marked, to the requestor.

Section 552.108(a)(2) 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. *Id.* You assert the submitted information pertains to cases that concluded in results other than conviction or deferred adjudication. Accordingly, we agree section 552.108(a)(2) is applicable, and as such, the submitted information may be withheld from the requestor.¹

¹Because section 552.108 is dispositive, we do not address your claim under section 552.101 in conjunction with the common-law informer’s privilege.

In summary, the city must release the breath test results and the urine test results, which we have marked, to the requestor under section 724.018 of the Transportation Code. The city may withhold the remainder of the submitted information under section 552.108(a)(2) of the Government Code.

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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/eeg

Ref: ID# 397188

Enc. Submitted documents

c: Requestor
(w/o enclosures)