



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 4, 2011

Mr. Lawrence G. Provins  
Assistant City Attorney  
City of Pearland  
3519 Liberty Drive  
Pearland, Texas 77581

OR2011-00155

Dear Mr. Provins:

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# 404889.

The City of Pearland (the "city") received a request for information pertaining to the requestor and another named individual during a specified time period. You claim that the requested 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.<sup>1</sup>

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. This section encompasses information protected by other statutes, such as section 261.201(a) of the Family Code, which provides:

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(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). You assert Exhibit C is subject to chapter 261 of the Family Code because a referral was made to Child Protective Services ("CPS"). However, you do not explain, nor do the documents reflect, the city's police department or CPS used or developed this information in an investigation under chapter 261. Thus, you have failed to demonstrate Exhibit C is confidential under section 261.201 of the Family Code, and the city may not withhold it under section 552.101 of the Government Code on such basis. As you raise no further exceptions to disclosure, the city must release Exhibit C to the requestor.

Next, section 552.108 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 ... release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that Exhibit B is related to a pending criminal prosecution. In support, you provide a letter from the Brazoria County District Attorney's Office ("district attorney") stating that the district attorney objects to the release of Exhibit B as prosecution is currently pending in this matter. Based on this representation and our review, we conclude that section 552.108(a)(1) is applicable to Exhibit B. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

Section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Therefore, the city must release basic information

in Exhibit B. However, the city may withhold the remaining information in Exhibit B under section 552.108(a)(1) of the Government Code.

In summary, with the exception of basic information, the city may withhold Exhibit B under section 552.108 of the Government Code. The city must release Exhibit C.<sup>2</sup>

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,



Tamara H. Holland  
Assistant Attorney General  
Open Records Division

THH/tf

Ref: ID# 404889

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We note that this requestor has a special right of access to some of the information being released. See Gov't Code § 552.023(a) (person or person's authorized representative has a special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests). Therefore, if the city receives another request for this information from a person who does not have a special right of access to this information, the city should resubmit this same information and request another decision from this office. See *id.* §§ 552.301(a), .302; Open Records Decision No. 673 (2001).