



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 29, 2011

Ms. Linda Hight
Records Coordinator
City of Cleburne
P.O. Box 677
Cleburne, Texas 76033

OR2011-04306

Dear Ms. Hight:

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# 412861.

The City of Cleburne (the "city") received a request for information pertaining to a specified incident involving three named individuals and a specified location. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception 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."¹ Gov't Code § 552.101. Section 552.101 encompasses 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:

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

(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)(2)-(3). The submitted information consists of files, reports, records, communications, or working papers used or developed in an investigation under chapter 261. Thus, the information is within the scope of section 261.201. In this instance, however, the requestor may be a parent of the child who is listed as the victim of the alleged abuse. Moreover, the requestor is not accused of committing the alleged abuse. Therefore, the submitted information may not be withheld from this requestor, if he is the child's parent, on the basis of section 261.201(a). *See id.* § 261.201(k). We are unable to determine whether the requestor is the child's parent; therefore, we must rule conditionally. Thus, if the requestor is not the child's parent, the city must withhold the submitted information in its entirety under section 552.101 in conjunction with section 261.201(a). If the requestor is the child's parent, the submitted information may not be withheld under section 552.101

on the basis of section 261.201(a). *See id.* However, section 261.201(1)(2) provides information subject to any other exception to disclosure under the Act or other law must be redacted. *Id.* § 261.201(1)(2). Therefore, we will address your claim under section 552.108 of the Government Code.

Section 552.108(a)(2) 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). 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). You state the submitted information is related to a concluded investigation, as no charges were filed, that did not result in a conviction or a deferred adjudication. Based on your representations, we conclude section 552.108(a)(2) is generally applicable to the submitted information.

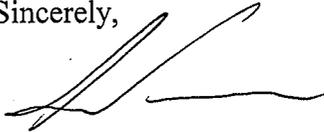
Section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), and includes the identification and description of the complainant. *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). In this instance, the complainant is also the reporting party for purposes of section 261.201 of the Family Code. Section 261.201(1)(3) of the Family Code states the reporting party’s identity must be redacted. *See* Fam. Code § 261.201(1)(3). Thus, with the exception of basic information, the city may withhold the submitted information under section 552.108(a)(2). However, in releasing basic information, the city must withhold the reporting party’s identity, which we marked, under section 552.101 in conjunction with section 261.201(1)(3).

In summary, if the requestor is not a parent of the child, then the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. If the requestor is a parent of the child, then with the exception of basic information, the city may withhold the submitted information under section 552.108(a)(2) of the Government Code. In releasing the basic information, the city must withhold the reporting party’s identity, which we marked, under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family 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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

Ref: ID# 412861

Enc. Submitted documents

c: Requestor
(w/o enclosures)