



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 19, 2011

Ms. Leann M. Quinn  
City Secretary  
City of Cedar Park  
600 North Bell Boulevard  
Cedar Park, Texas 78613

OR2011-18665

Dear Ms. Quinn:

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# 439327 (Reference Number 11-886).

The City of Cedar Park (the "city") received a request for information pertaining to a specified incident. You state some of the requested information will be made available to the requestor. You also state you have redacted social security numbers pursuant to section 552.147 of the Government Code.<sup>1</sup> You claim that 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."<sup>2</sup> Gov't Code § 552.101. This section encompasses information protected by other statutes. Section 261.201 of the Family Code provides, in relevant part, as follows:

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<sup>1</sup>Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).

<sup>2</sup>The 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).

(a) [T]he 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.

...

(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[.]

Fam. Code § 261.201(a), (k), (l)(2). The submitted information pertains to a report of alleged or suspected child abuse. *See id.* § 261.001(1) (defining “abuse” 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). Therefore, this report falls within the scope of section 261.201(a). However, the requestor may be a parent of the child victim listed in the report, and the requestor is not alleged to have committed the alleged abuse. As such, this requestor may have a right of access to the submitted report pursuant to section 261.201(k). As we are unable to determine whether the requestor is a parent of the child victim, we will rule conditionally. If the requestor is not a parent of the child victim

listed in the submitted information, the city must withhold the submitted report 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 victim, pursuant to section 261.201(k), the city may not withhold the submitted report from the requestor under section 261.201(a). *Id.* § 261.201(k). However, 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). Accordingly, to the extent the requestor is a parent of the child victim listed in the submitted report, we will consider your argument under section 552.108 for this information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than a conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that 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)(1)(A); Open Records Decision No. 434 at 2–3 (1986). You state the information submitted as Exhibit C relates to an investigation that has concluded and did not result in a conviction or deferred adjudication. Based on this representation and our review, we conclude the city may withhold the information submitted as Exhibit C under section 552.108(a)(2) of the Government Code.<sup>3</sup>

We note some of the information in Exhibit B is excepted under section 552.130 of the Government Code, which excepts from public disclosure information relating to a driver's license issued by an agency of this state or another state or country. Gov't Code § 552.130(a). Upon review, we have marked driver's license information in Exhibit B that must be withheld under section 552.130(a)(1).

In summary, if the requestor is not a parent of the child victim listed in the submitted report, then the submitted information must be withheld in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. If the requestor is a parent of the child victim listed in the report, the city may withhold Exhibit C under section 552.108(a)(2) of the Government Code. The city must withhold the driver's license information we have marked in Exhibit B under section 552.130 of the Government Code. The remaining information in Exhibit B must be released.<sup>4</sup>

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<sup>3</sup>As our ruling for Exhibit C is depositive, we need not address your remaining arguments against disclosure of this information.

<sup>4</sup>We note the information being released in this instance includes information that is confidential with respect to the general public. *See* Fam. Code § 261.201(k). Therefore, if the city receives another request for this information from a different requestor, then the city should again seek a decision from this office. *See* Gov't Code §§ 552.301(a), .302.

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,



Nneka Kanu  
Assistant Attorney General  
Open Records Division

NK/bs

Ref: ID# 439327

Enc. Submitted documents

c: Requestor  
(w/o enclosures)