



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 6, 2012

Mr. Tom Donnelly  
City Secretary  
City of Hallettsville  
101 North Main  
Hallettsville, Texas 77964-2727

OR2012-00277

Dear Mr. Donnelly:

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# 441577.

The City of Hallettsville (the "city") received a request for all reports regarding a specified type of offense made by the requestor during a specified time period and video recordings pertaining to two specified traffic violations. You state you have released some of the requested information. You indicate you will redact driver's license numbers under section 552.130 of the Government Code and social security numbers under section 552.147 of the Government Code.<sup>1</sup> You claim that some of 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 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 of the Family Code, which provides, in relevant part:

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<sup>1</sup>We note the Texas legislature amended section 552.130 effective September 1, 2011, to allow a governmental body to redact the information described in subsection 552.130(a)(1) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Additionally, we note 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. *Id.* § 552.147(b).

(a) [T]he 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.

Fam. Code § 261.201(a), (k). Upon review, we agree some of the submitted information pertains to an investigation of alleged or suspected child abuse or neglect; thus, the information falls within the scope of section 261.201 of the Family Code. *See 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), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). In this instance, you inform us the requestor is a parent of the child victim listed in the information at issue. However, as you acknowledge, the requestor is an individual alleged to have committed the suspected abuse or neglect; thus, the requestor does not have a right of access under section 261.201(k). *See id.* § 261.201(k). Accordingly, the city must withhold report number IR-10-000344 in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.<sup>2</sup>

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of report number IR-10-000344.

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 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) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state that report numbers IR-10-000320, IR-11-000230, and IR-11-000329 pertain to criminal cases that concluded in results other than convictions or deferred adjudication. Thus, we find the city may withhold the information you have marked within report numbers IR-10-000320, IR-11-000230, and IR-11-000329 under section 552.108(a)(2) of the Government Code.

Finally, we note you have marked a telephone number for redaction in the remaining information in report number IR-10-000320 but have not provided any arguments to withhold this information under the Act. *See* Gov’t Code 552.301(a)(1), (b) (governmental body must label submitted information to indicate which exceptions apply to which parts of it). We are not aware of any exception that makes this information confidential under the Act. *See* Open Records Decision No. 478 at 2 (1987) (statutory confidentiality requires express language making information confidential or stating information shall not be released to public). Therefore, the city must provide the telephone number you have marked to the requestor.

In summary: (1) the city must withhold report number IR-10-000344 in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code; and (2) the city may withhold the information you have marked within report numbers IR-10-000320, IR-11-000230, and IR-11-000329 under section 552.108(a)(2) of the Government Code. The city must release the remaining information.<sup>3</sup>

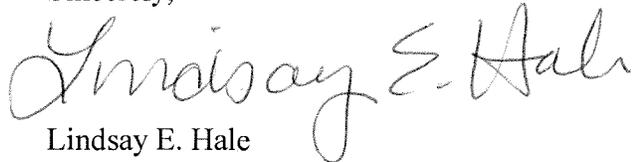
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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<sup>3</sup>We note the information being released contains the requestor’s driver’s license number and social security number, to which the requestor has a right of access under section 552.023 of the Government Code. *See* Gov’t Code §§ 552.023(a) (person or person’s authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person’s privacy interests), .130. As previously noted, section 552.130(c) of the Government Code authorizes a governmental body to redact information protected by section 552.130(a)(1) without the necessity of requesting a decision under the Act. *Id.* § 552.130(c). Additionally, as noted above, 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. *Id.* § 552.147(b). Thus, if the city receives another request for this same information from a person who does not have such a right of access, sections 552.130(c) and 552.147(b) authorize the city to redact the requestor’s driver’s license information and social security number, respectively.

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,

A handwritten signature in cursive script that reads "Lindsay E. Hale". The signature is written in black ink and is positioned above the typed name.

Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/ag

Ref: ID# 441577

Enc. Submitted documents

c: Requestor  
(w/o enclosures)