



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 15, 2012

Mr. Peter G. Smith
City Attorney
City of Richardson
P.O. Box 831078
Richardson, Texas 75083-1078

OR2012-03857

Dear Mr. Smith:

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# 448002 (File No. 11-927).

The Richardson Police Department (the "department") received a request for "any abuse records" involving certain named individuals. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure pursuant to 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. Section 552.101 encompasses information other statutes make confidential, such as section 261.201 of the Family Code which provides, in relevant part, as follows:

(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). Upon review, we find the submitted reports were used or developed in investigations of alleged or suspected child abuse or neglect. *See id.* §§ 261.001 (defining “abuse” and “neglect” for purposes of Fam. Code ch. 261), 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, these reports are within the scope of section 261.201. You do not indicate the city has adopted a rule governing the release of this type of information; therefore, we assume no such regulation exists. Given that assumption, we conclude the marked reports are confidential pursuant to section 261.201 of the Family Code, and the city must withhold them in their entirety under section 552.101 of the Government Code.¹ In this

¹As our ruling is dispositive, we do not address your remaining argument against disclosure of this information.

instance, however, the requestor is a parent of the alleged child victim listed in the remaining report. Further, the requestor is not the individual alleged to have committed the alleged abuse. *See id.* § 261.201(k). Therefore, the city may not use section 261.201(a) to withhold the remaining report from the requestor. *Id.* Section 261.201(l)(2) states, however, 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). Thus, we will address your argument under section 552.108 of the Government Code for the remaining report.

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). You state the remaining report relates to a criminal investigation that did not result in a conviction or deferred adjudication. Accordingly, we find section 552.108(a)(2) of the Government Code is applicable to the remaining report.

We note, however, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *Id.* § 552.108(c). Section 552.108(c) refers to the basic “front-page” information held to be public in *Houston Chronicle Publishing 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 a detailed description of the offense. Thus, with the exception of basic information, the city may withhold the remaining report under section 552.108(a)(2) of the Government Code.

In summary, the city must withhold the reports we have marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. With the exception of basic information, which must be released, the city may withhold the remaining report under section 552.108(a)(2) of the Government Code.²

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,

²The requestor has a special right of access under section 261.201(k) of the Family Code to the information being released. *See* Fam. Code § 261.201(k). Accordingly, 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, .302; Open Records Decision No. 673 (2001).

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, appearing to read "Jennifer Burnett", with a long horizontal flourish extending to the right.

Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/sdk

Ref: ID# 448002

Enc. Submitted documents

c: Requestor
(w/o enclosures)