



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 16, 2012

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

OR2012-07340

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# 453748 (Reference Number 12-417).

The City of Cedar Park (the "city") received a request for a specified police report. You claim some of the submitted information is excepted from disclosure under sections 552.108 and 552.130 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 made confidential by other statutes, including section 261.201 of the Family Code, which provides in relevant part:

(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.

(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:

(1) any personally identifiable information about a victim or witness under 18 years of age unless that victim or witness is:

(A) the child who is the subject of the report; or

(B) another child of the parent, managing conservator, or other legal representative requesting the information;

(2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law; and

(3) the identity of the person who made the report.

Fam. Code § 261.201(a), (k)–(l). We note Exhibits B and C were used or developed in an investigation of alleged or suspected child abuse or neglect. *See id.* §§ 101.003(a) (defining “child” as person under eighteen years of age who is not and has not been married and who has not had disabilities of minority removed for general purposes), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of Family Code); *see also* Penal Code § 22.041. Accordingly, we find Exhibits B and C are within the scope of section 261.201(a). We note, however, the requestor is the parent of one of the alleged child victims at issue and is not alleged to have committed the alleged or suspected child abuse or neglect. Thus, the

city may not withhold Exhibits B and C from this requestor on the basis of section 261.201(a). *See* Fam. Code § 261.201(k). However, before the city provides any of this information to the requestor, the city must redact any information that is otherwise excepted from required disclosure under the Act. *See id.* § 261.201(l)(2). As you raise sections 552.108 and 552.130 of the Government Code, we will consider their applicability to the submitted information.

Section 552.108(a)(1) 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, and provide documentation demonstrating, that Exhibit C pertains to a pending criminal prosecution. Based on your representation and our review, we conclude release of this information would interfere with the detection, investigation, or prosecution of crime. *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 per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, the city may withhold Exhibit C under section 552.108(a)(1) of the Government Code.¹

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s or driver’s license, title, or registration issued by a Texas agency, or an agency of another state or country, is excepted from public release. Gov’t Code § 552.130(a)(1), (2). We note the requestor has a right of access to his own motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(b) (governmental body may not deny access to person to whom information relates or person’s agent on grounds that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Upon review, we find the city must withhold the motor vehicle record information you have marked in Exhibit B under section 552.130.

Lastly, we note that before the city provides any of the remaining information in Exhibit B to the requestor, the city must redact any personally identifying information about the other child victims at issue who are not the children of the requestor and the identity of the person making the report. *See* Fam. Code § 261.201(l)(1), (3). The city must withhold the information we have marked in Exhibit B under subsections 261.201(l)(1) and (l)(3) of the Family Code.

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

In summary, the city may withhold Exhibit C under section 552.108(a)(1) of the Government Code. The city must withhold the information you have marked in Exhibit B under section 552.130 of the Government Code. The city must withhold the information we have marked in Exhibit B under subsections 261.201(l)(1) and (l)(3) of the Family Code. The city must release the remaining information in Exhibit B.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, 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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/akg

Ref: ID# 453748

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note the information being released contains confidential information to which the requestor has a right of access. *See* Fam. Code § 261.201(k). If the city receives another request for this information from a different requestor, then the city should again seek a decision from this office.