



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 1, 2012

Ms. Cathy Cunningham  
For Town of Argyle  
Boyle & Lowry, L.L.P.  
4201 Wingren, Suite 108  
Irving, Texas 75062-2763

OR2012-12030

Dear Ms. Cunningham:

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# 460737.

The Argyle Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident involving the requestor's son.<sup>1</sup> You state you have released some information to the requestor. You claim the remaining 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 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. Section 552.101 encompasses section 261.201 of the Family Code, which provides, in relevant part:

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<sup>1</sup>We note the department sought and received clarification of the information requested. See Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request).

<sup>2</sup>The Office of the Attorney General will raise mandatory exceptions 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) 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:

(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). Upon review, we find the submitted information relates to an investigation of alleged child abuse by the department. *See id.* § 261.001 (defining “abuse” for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining “child” for purposes of chapter 261). We note, however, the requestor in this case is the parent of the child victim named in the report, and the requestor is not accused of having committed the abuse. Thus, pursuant to 261.201(k), these reports may not be

withheld from the requestor under section 261.201(a). *See id.* § 261.201(k). However, section 261.201(l) states before a parent can copy or inspect a record of her child under section 261.201(k), the identity of the reporting party must be redacted. *Id.* § 261.201(l)(3). Additionally, subsection 261.201(l)(2) states any information that is excepted from required public disclosure under the Act or other law may still be withheld from disclosure. *See id.* § 261.201(l)(2). Accordingly, we will address your argument under section 552.108 of the Government Code for the submitted information.

You raise section 552.108(a)(2) of the Government Code for the information in Exhibit C. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A). You state the submitted information relates to an investigation by the department that was no-billed by the grand jury, and therefore, you indicate the information at issue relates to a closed case did not result in a conviction or deferred adjudication. Based on your representations and our review, we conclude the department has demonstrated section 552.108(a)(2) is applicable to the information at issue.

However, as you acknowledge, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the 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). *See* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note basic information includes the identity of the complainant. *See* ORD 127 at 4. Thus, with the exception of the basic information, the department may withhold Exhibit C under section 552.108(a)(2) of the Government Code. However, as noted above, section 261.201(l)(3) of the Family Code provides that the identity of a party who makes a report of abuse or neglect must be withheld under section 261.201(l)(3). Fam. Code § 261.201(l)(3). Thus, the department must withhold the reporting party's identifying information, which we have marked, from the basic information pursuant to section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code.<sup>3</sup>

We note some of the information in Exhibit B is subject to section 552.130 of the Government Code. Section 552.130 provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by an agency

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<sup>3</sup>We note the requestor has a special right of access to the information being released in this instance. *See* Fam. Code § 261.201(k). Because such information is confidential with respect to the general public, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.

of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Accordingly, the department must withhold the driver's license number we have marked under section 552.130 of the Government Code.

In summary, with the exception of basic information, the department may withhold Exhibit C under section 552.108(a)(2) of the Government Code. In releasing the basic information, the department must withhold the reporting party's identifying information, which we have marked pursuant to section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code. The department must withhold the driver's license number we have marked in Exhibit B under section 552.130 of the Government 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](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,



Cynthia G. Tynan  
Assistant Attorney General  
Open Records Division

CGT/ag

Ref: ID# 460737

Enc. Submitted documents

c: Requestor  
(w/o enclosures)