



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 7, 2013

Ms. Elizabeth L. White
Counsel for the City of League City
Ross, Banks, May, Cron & Cavin, P.C.
2 Riverway, Suite 700
Houston, Texas 77056-1918

OR2013-09483

Dear Ms. White:

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# 489479 (League City Reference No. PIR # 2614, Ross Banks File No. 3607-1).

The League City Police Department (the "department"), which you represent, received a request for information related to Case Number 12-4184. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code.¹ 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 protected by other statutes, such as section 48.101 of the Human Resources Code, which provides in part:

(a) The following information is confidential and not subject to disclosure under Chapter 552, Government Code:

¹Although you also raise section 552.023 of the Government Code, we note this is not an exception to disclosure under the Act. Instead, section 552.023 provides a special right of access to information related to a person that is protected from public disclosure by laws intended to protect the person's privacy interests to the person or the person's authorized representative. *See* Gov't Code § 552.023(a).

- (1) a report of abuse, neglect, or exploitation made under this chapter;
- (2) the identity of the person making the report; and
- (3) except as provided by this section, all files, reports, records, communications, and working papers used or developed in an investigation made under this chapter or in providing services as a result of an investigation.

(b) Confidential information may be disclosed only for a purpose consistent with this chapter and as provided by [the Texas Department of Family and Protective Services (the “DFPS”)] or investigating state agency rule and applicable federal law.

Hum. Res. Code § 48.101(a), (b). Section 48.051 of the Human Resources Code provides “a person having cause to believe that an elderly or disabled person is in the state of abuse, neglect, or exploitation” shall report certain prescribed information to the DFPS or another appropriate state agency. *See id.* § 48.051(a). The only entities authorized to conduct an investigation under chapter 48 of the Human Resources Code are the DFPS and certain other state agencies, depending on the circumstances surrounding the incident. *See id.* §§ 48.151, .152, .252, .301. Thus, reports made by the department generally are not subject to section 48.101. The submitted report was created by the department in connection with a criminal investigation conducted by the department. However, you inform us the Adult Protective Services division (“APS”) of the DFPS was involved in the investigation. Thus, because the legislature expressly made all information used by the APS in its investigations under chapter 48 of the Human Resources Code confidential, the submitted information is confidential under section 48.101. *See id.* § 48.101(a)(3). Such information must not be released to the public, except for a purpose consistent with chapter 48 and as provided by a department or investigating state agency rule or federal law. *See id.* § 48.101(b). *But see id.* § 48.101(c)-(f) (permitting release of confidential information in certain circumstances). You do not indicate, nor does it appear, an exception to confidentiality applies in this instance. Accordingly, we conclude the department must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 48.101 of the Human Resources 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.

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of the submitted information.

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,

A handwritten signature in black ink that reads "Eamon Briggs". The signature is written in a cursive, flowing style.

Eamon D. Briggs
Assistant Attorney General
Open Records Division

EDB/som

Ref: ID# 489479

Enc. Submitted documents

c: Requestor
(w/o enclosures)