



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 14, 2014

Mr. Jeffrey L. Moore
Counsel for City of Forney
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2014-06119

Dear Mr. Moore:

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# 519840.

The Forney Police Department (the "department"), which you represent, received a request for information pertaining to two specified incidents. You state the department is releasing some information. You claim the submitted information is excepted from disclosure under sections 552.101, 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 protected by other statutes, such as section 261.201 of the Family Code, which provides in pertinent 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:

...

(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 agree the information you have marked was used or developed by the department in an investigation of alleged or suspected child abuse. *See id.* § 261.001(1) (defining “abuse” for purposes of chapter 261 of the Family Code). Accordingly, we conclude this information is within the scope of section 261.201(a). We note, however, the requestor is a parent of the alleged child victim at issue. Furthermore, the requestor is not the individual alleged to have committed the abuse. Therefore, the department may not withhold this information from the requestor under section 261.201(a) of the Family Code. *See id.* § 261.201(k). However, the department must redact any information that is excepted from required disclosure under the Act pursuant to section 261.201(l)(2). *Id.* § 261.201(l)(2). Accordingly, we will address your argument under section 552.108 of the Government Code.

Section 552.108(a)(2) 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 . . . 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 submitted information relates to concluded investigations that did not result in conviction or deferred adjudication. Based on your representation and our review of the information at issue, we conclude that section 552.108(a)(2) is applicable to the submitted information.

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). Basic information must be released, even if it does not literally appear on the front page of the report. *See* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Therefore, with the exception of basic information, which must be released to this requestor, the department may withhold the submitted information under section 552.108(a)(2) of the Government Code.¹

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/eb

¹As our ruling is dispositive, we need not address your remaining argument against disclosure. Additionally, we note the requestor has a right of access to some of the information being released pursuant to section 261.201(k) of the Family Code. Accordingly, if the department receives another request for this information from a different requestor, then the department should again seek a decision from this office.

Ref: ID# 519840

Enc. Submitted documents

c: Requestor
(w/o enclosures)