



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 16, 2014

Ms. Linda Pemberton  
Paralegal  
Office of the City Attorney  
City of Killeen  
P.O. Box 1329  
Killeen, Texas 76540-1329

OR2014-06292

Dear Ms. Pemberton:

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# 519839 (City ID# W012524-012814).

The City of Killeen (the "city") received a request for all city police reports pertaining to a specified address since March, 2013, including report numbers 13-000131 and 08-017308. You state the city has released some of the requested information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note report number 08-017308 was the subject of a previous request for information from the same requestor, as a result of which this office issued Open Records Letter No. 2009-04111 (2009).<sup>1</sup> We have no indication there has been any change in the law,

---

<sup>1</sup>In Open Records Letter No. 2009-04111, we determined that with the exception of basic information, the city's police department (the "department") may withhold report number 08-017308 under section 552.108(a)(1) of the Government Code. To the extent the requestor does not have a right of access to his spouse's information pursuant to section 552.023 of the Government Code, the department must withhold the victim's identifying information, which we have marked, pursuant to section 552.101 of the Government Code in conjunction with common-law privacy. The remaining basic information must be released.

facts, or circumstances on which the previous ruling was based. Accordingly, the city may rely on Open Records Letter No. 2009-04111 as a previous determination and withhold or release the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). We will address your argument against disclosure of the newly submitted information, which was not responsive to the previous request for information.

Section 552.101 of the Government Code exempts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information protected by other statutes. Section 261.201 of the Family Code 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.

(1) 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), (1)(2). You assert report number 13-000131 was used or developed in an investigation of alleged or suspected child abuse or neglect by the city's police department. *See id.* §§ 261.001(1), (4) (defining "abuse" and "neglect" for purposes of chapter 261 of the Family Code); *see also* § 101.003(a) (defining "child" for purposes of this section). Accordingly, we find report number 13-000131 is subject to chapter 261 of the Family Code.

We note the requestor is a parent of the child victims listed in the information, and is not alleged to have committed the abuse or neglect. Thus, pursuant to section 261.201(k), the information at issue may not be withheld from this requestor under section 552.101 of the Government Code on the basis of section 261.201(a). *See id.* § 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 pursuant to section 261.201(1)(2). *Id.* § 261.201(1)(2). As you raise section 552.108(a)(2) of the Government Code for the submitted information, we will consider the applicability of that section to this information.

Section 552.108(a)(2) of the Government Code 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) (governmental body must provide comments explaining why exceptions raised should apply to information requested).

You inform us report number 13-000131 concerns a concluded criminal investigation that did not result in a conviction or deferred adjudication. Based on your representation and our review, we conclude section 552.108(a)(2) is applicable to the information at issue.

However, 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 at 3-4 (1976) (summarizing

types of information made public by *Houston Chronicle*). Thus, with the exception of basic information, which must be released, the city may withhold report number 13-000131 under section 552.108(a)(2) of the Government Code.

In summary, the city may rely on Open Records Letter No. 2009-04111 as a previous determination and withhold or release the identical information in accordance with that ruling. With the exception of basic information, which must be released, the city may withhold report number 13-000131 under section 552.108(a)(2) of the Government Code.<sup>2</sup>

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](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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 519839

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

---

<sup>2</sup>We note the requestor has a special right of access to the information being released. 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.