



ATTORNEY GENERAL OF TEXAS
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March 19, 2014

Ms. Alexis G. Allen
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1800 Ross Tower
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OR2014-04646

Dear Ms. Allen:

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# 517200 (Reference No. 62256).

The City of Highland Village (the "city"), which you represent, received a request for five specified reports. You claim portions of the submitted information are 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. This section encompasses 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 [chapter 261 of the Family Code] 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 [chapter 261 of the Family Code] 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.

Fam. Code § 261.201(a), (k). We find reports 13hp009368, 13hp008397, and 13hp10074 were used or developed in investigations of alleged or suspected child abuse. Accordingly, we find this information falls within the scope of section 261.201 of the Family Code. *See id.* §§ 261.001(1) (defining “abuse” for purposes of chapter 261 of the Family Code), 101.003(a) (defining “child” for purposes of section 261.201 as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). You have not indicated the city has adopted a rule that governs the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption, the city must withhold reports 13hp009368 and 13hp10074 under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.¹

In this case, although the requestor is the parent of the child victim named in report 13hp008397, the requestor is alleged to have committed the suspected abuse. Thus, the requestor does not have a right of access to this information under section 261.201(k). *See id.* § 261.201(k). Accordingly, the city must withhold report 13hp008397 under

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

section 552.101 of the Government Code in conjunction with section 261.201(k) of the Family Code.²

Section 552.101 also encompasses section 58.007 of the Family Code which provides in relevant part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

...

(e) Law enforcement records and files concerning a child may be inspected or copied by a juvenile justice agency as that term is defined by Section 58.101, a criminal justice agency as that term is defined by Section 411.082, Government Code, the child, and the child's parent or guardian.

...

(j) Before a child or a child's parent or guardian may inspect or copy a record or file concerning the child under Subsection (e), the custodian of the record or file shall redact:

...

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

²As our ruling is dispositive for this information, we need not address your remaining arguments against its disclosure.

Id. § 58.007(c), (e), (j)(2). Section 58.007(c) is applicable to law enforcement records of juvenile delinquent conduct that occurred on or after September 1, 1997. *See id.* § 51.03(a) (defining “delinquent conduct” for purposes of section 58.007). For purposes of section 58.007(c), “child” means a person who is ten years of age or older and under seventeen years of age at the time of the reported conduct. *See id.* § 51.02(2). Report 13hp010079 pertains to a juvenile suspect who was ten years of age or older and under seventeen years of age at the time of the incident that is the subject of the submitted report. Further, the report involves juvenile delinquent conduct that occurred after September 1, 1997. Thus, this information is generally confidential under section 58.007(c). We note, and you acknowledge, the requestor is a parent of the juvenile offender listed in the report. Therefore, the requestor has a right to inspect juvenile law enforcement records concerning his juvenile child pursuant to section 58.007(e) of the Family Code. *See id.* § 58.007(e). Section 58.007(j) provides, however, that information subject to any other exception to disclosure under the Act or other law must also be redacted. *See id.* § 58.007(j)(2). Accordingly, we will address your claim under section 552.108 of the Government Code for this report.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See 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 has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state reports 13hp010079 and 13hp008452 relate to concluded investigations that did not result in convictions or deferred adjudication. Based on your representation and our review, we find section 552.108(a)(2) of the Government Code 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.” *Gov’t Code* § 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*. *See* 531 S.W.2d 177, 186-187 (Tex. Civ. App.—[14th Dist.] 1975); *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of the basic information, the city may withhold reports 13hp010079 and 13hp008452 under section 552.108(a)(2).³

In summary, the city must withhold reports 13hp009368, 13hp008397, and 13hp10074 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family

³As our ruling is dispositive for this information, we need not address the remaining arguments against its disclosure, except to note basic information held to be public in *Houston Chronicle* is generally not excepted from public disclosure under section 552.103 of the Government Code. Open Records Decision No. 597 (1991).

Code. With the exception of the basic information, which must be released, the city may withhold reports 13hp010079 and 13hp008452 under section 552.108(a)(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.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,



Megan G. Holloway
Assistant Attorney General
Open Records Division

MGH/akg

Ref: ID# 517200

Enc. Submitted documents

c: Requestor
(w/o enclosures)