



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 12, 2014

Dr. Andrea Grooms  
Executive Director of Communications  
Katy Independent School District  
6301 South Stadium Lane  
Katy, Texas 77494

OR2014-14072

Dear Dr. Grooms:

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# 532434 (Request No. 13569-70).

The Katy Independent School District (the "district") received a request for a specified offense report. You claim the 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 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."<sup>1</sup> Gov't Code § 552.101. This exception encompasses information made confidential by other statutes, including section 261.201 of the Family Code, which provides:

(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 [the Family Code] and applicable federal or state law or under rules adopted by an investigating agency:

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

(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.

(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:

(1) any personally identifiable information about a victim or witness under 18 years of age unless that victim or witness is:

(A) the child who is the subject of the report; or

(B) another child of the parent, managing conservator, or other legal representative requesting the information;

(2) any information that is excepted from required disclosure under [the Act], or other law[.]

Fam. Code § 261.201(a), (k), (l)(1), (2). We note the district is not an agency authorized to conduct a chapter 261 investigation. *See id.* § 261.103 (listing agencies that may conduct child abuse investigations). However, the submitted information indicates the information at issue was used or developed by the district's police department, which is an agency authorized to conduct investigations under chapter 261 of the Family Code. Upon review, we find the submitted information was used or developed in an investigation of alleged or suspected child abuse under chapter 261 of the Family Code, so as to be generally

confidential under section 261.201. *See id.* §§ 261.001 (defining “abuse” for purposes of chapter 261 of the Family Code), 101.003(a) (defining “child” for purposes of this section 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). In this instance, however, the requestor is a parent of the victim of the alleged or suspected child abuse and is not accused of committing the abuse. Therefore, pursuant to section 261.201(k) of the Family Code, the submitted information 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). Section 261.201(l)(1) states the personally identifiable information of a victim or witness who is under the age of eighteen and is not a child of the parent, managing conservator, or other legal representative requesting the information must be withheld from disclosure. *Id.* § 261.201(l)(1). Therefore, to the extent any of the witnesses listed in the submitted information are under the age of eighteen and not a child of the parent, managing conservator, or other legal representative requesting the information, the district must withhold their personally identifiable information under section 552.101 of the Government Code in conjunction with section 261.201(l)(1) of the Family Code. Further, section 261.201(l)(2) provides that any information excepted from disclosure under the Act or other law must be withheld. *See id.* § 261.201(l)(2). Thus, we will address whether any portion of the submitted information must be withheld under the Act or other law.

Section 552.108 of the Government Code provides, in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

- (1) release of the information would interfere with the detection, investigation, or prosecution of crime; [or]
- (2) it is information that the 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)(1), (2). We note the protections offered by sections 552.108(a)(1) and 552.108(a)(2) of the Government Code are, generally, mutually exclusive. Section 552.108(a)(1) applies to information that pertains to criminal investigations or prosecutions that are currently pending, while section 552.108(a)(2) protects law enforcement records that pertain to criminal investigations and prosecutions that have concluded in final results other than criminal convictions or deferred adjudications. A governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). A governmental body that claims section 552.108(a)(2) must demonstrate that the requested

information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See* Gov't Code §§ 552.108(a)(2), .301(e)(1)(A).

You argue the submitted information should be withheld under section 552.108(a)(1) because it relates to an ongoing investigation. However, you also claim the submitted information should be withheld under section 552.108(a)(2) because it relates to a case that did not result in conviction or deferred adjudication. Based on these conflicting representations, we are unable to determine if the submitted information relates to an ongoing criminal case or a case that did not result in conviction or deferred adjudication. Thus, we find you have failed to demonstrate the applicability of section 552.108(a)(1) or (a)(2) to the submitted information; therefore, no portion of the submitted information may be withheld under section 552.108(a)(1) or (a)(2) of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release.<sup>2</sup> *Id.* § 552.130(a). Upon review, we find the district must withhold the driver's license information we have marked under section 552.130 of the Government Code.

In summary, to the extent any of the witnesses listed in the submitted information are under the age of eighteen and not a child of the parent, managing conservator, or other legal requesting the information, the district must withhold their identifying information under section 552.101 of the Government Code in conjunction with subsection 261.201(l)(1) of the Government Code. The district must withhold the driver's license information we have marked under section 552.130 of the Government Code. The district must release the remaining information to this requestor.<sup>3</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/>

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<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); *see also* Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates, or that party's representative, solely on grounds that information is considered confidential by privacy principles).

[url\\_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,

A handwritten signature in black ink that reads "Megan G. Holloway". The signature is written in a cursive style with a large, looping "M" and "H".

Megan G. Holloway  
Assistant Attorney General  
Open Records Division

MGH/akg

Ref: ID# 532434

Enc. Submitted documents

c: Requestor  
(w/o enclosures)