



January 5, 2015

Mr. Gary A. Scott
Assistant City Attorney
Legal Department
City of Conroe
P.O. Box 3066
Conroe, Texas 77305

OR2015-00047

Dear Mr. Scott:

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# 548727.

The City of Conroe (the "city") received a request for four specified offense reports. You state some information was released to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 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 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 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; and

(3) the identity of the person who made the report.

Fam. Code § 261.201(a), (k), (l)(2)-(3). Upon review, we agree the submitted information was used or developed in investigations of alleged child abuse. *See id.* §§ 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), 261.001(1)(E) (definition of child abuse includes sexual assault under Penal Code section 22.021). Thus, we find the submitted information is generally confidential under section 261.201 of the Family Code. We note, however, the requestor is a parent of the alleged child victims listed in the reports. Further, the requestor is not alleged to have

committed the suspected abuse. Thus, report number 06063365 may not be withheld from this requestor on the basis of section 261.201(a). *Id.* § 261.201(k). We note, however, the child victim listed in report number 03083152 is now eighteen years old. However, the requestor may be this victim's authorized representative. As such, this requestor may have a right of access to the information at issue pursuant to section 261.201(k). *Id.* § 261.201(k). Thus, if the requestor is not the authorized representative of the child victim listed in report number 03083152, then this information must be withheld in its entirety from the requestor under section 552.101 in conjunction with section 261.201 of the Family Code. However, if the requestor is the authorized representative, the city may not use section 261.201(a) to withhold report number 03083152 from the requestor. Pursuant to section 261.201(1)(3), the identity of the reporting party must be withheld. *See id.* § 261.201(1)(3). Thus, the city must withhold the identity of the reporting party, which we have marked, in report number 03083152 under section 552.101 in conjunction with section 261.201(1)(3). Further, the city also must redact any information that is otherwise excepted from required disclosure under the Act. *See id.* § 261.201(1)(2). Accordingly, we will address your remaining argument against disclosure for the submitted information.

We note portions of the remaining information are subject to section 1703.306 of the Occupations Code. Section 552.101 also encompasses section 1703.306 of the Occupations Code, which provides the following:

(a) A polygraph examiner, trainee, or employee of a polygraph examiner, or a person for whom a polygraph examination is conducted or an employee of the person, may not disclose information acquired from a polygraph examination to another person other than:

- (1) the examinee or any other person specifically designated in writing by the examinee;
- (2) the person that requested the examination;
- (3) a member, or the member's agent, of a governmental agency that licenses a polygraph examiner or supervises or controls a polygraph examiner's activities;
- (4) another polygraph examiner in private consultation; or
- (5) any other person required by due process of law.

(b) The [Texas Department of Licensing and Regulation] or any other governmental agency that acquires information from a polygraph examination under this section shall maintain the confidentiality of the information.

(c) A polygraph examiner to whom information acquired from a polygraph examination is disclosed under Subsection (a)(4) may not disclose the information except as provided by this section.

Occ. Code § 1703.306. Upon review, we find the information we marked constitutes information acquired from a polygraph examination that is confidential under section 1703.306. It does not appear the requestor falls into any of the categories of individuals who are authorized to receive the polygraph information under section 1703.306(a). Accordingly, the city must withhold the polygraph information we marked under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See Gov't Code § 552.130.* Accordingly, the city must withhold the driver's license information we marked under section 552.130 of the Government Code.

In summary, if the requestor is not the authorized representative of the child victim listed in report number 03083152, then this information must be withheld in its entirety from the requestor under section 552.101 in conjunction with section 261.201 of the Family Code. If the requestor is the authorized representative of the child victim listed in report number 03083152, then the city must withhold the identifying information of the reporting party, which we have marked, under section 552.101 of the Government Code in conjunction with 261.201(l)(3) of the Family Code. The city must withhold the polygraph information we marked under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code. The city must withhold the driver's license information we marked under section 552.130 of the Government Code. The city must release the remaining information.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/>

¹Because the information being released in this instance is information that is confidential with respect to the general public, if the city receives another request for this information from an individual other than this requestor, the city must again seek a ruling from this office. *See Fam. Code § 261.201(k).*

[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,



Lauren Dahlstein
Assistant Attorney General
Open Records Division

LMD/som

Ref: ID# 548727

Enc. Submitted documents

c: Requestor
(w/o enclosures)