



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 25, 2016

Ms. Ylise Janssen
General Counsel
Austin Independent School District
1111 West Sixth Street
Austin, Texas 78703

OR2016-09270

Dear Ms. Janssen:

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# 613671.

The Austin Independent School District (the "district") received a request for a specified police report. 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.

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 exception encompasses information other statutes make confidential. Section 552.101 of the Government Code encompasses section 261.201 of the Family Code, which provides in pertinent part as follows:

(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). We find the information at issue consists of files, reports, records, communications, audiotapes, videotapes, or working papers used or developed in an investigation under chapter 261 of the Family Code, so as to fall within the scope of section 261.201(a)(2). *See id.* § 261.001(1) (defining “abuse,” for purposes of Fam. Code ch. 261); *see also id.* § 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). We conclude the submitted information is confidential under section 261.201(a) of the Family Code.

In this instance, however, the requestor may be the parent of the child who was the victim of the alleged abuse, and the requestor was not accused of committing the alleged abuse. Therefore, pursuant to section 261.201(k), the submitted information may not be withheld from the requestor on the basis of section 261.201(a) if she is the child’s parent. *See id.* § 261.201(k). As we are unable to determine whether the requestor is the child’s parent, we must rule conditionally. Thus, if the requestor is not the child’s parent, then the district must

withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. But if the requestor is the child's parent, the submitted information may not be withheld under section 552.101 on the basis of section 261.201(a) of the Family Code. *See id.* § 261.201(k). Section 261.201(1)(3), however, states the identity of the reporting party must be withheld from disclosure. *Id.* § 261.201(1)(3). Furthermore, section 261.201(1)(2) states any information that is excepted from required disclosure under the Act or other law must be withheld from disclosure. *Id.* § 261.201(1)(2). Accordingly, we will consider your remaining argument against disclosure of the submitted information.

Section 552.108(a)(2) of the Government Code excepts “[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). 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 the submitted information pertains to a closed case that did not result in conviction or deferred adjudication. Based on your representation and our review, we find section 552.108(a)(2) is applicable to the submitted report.

We note section 552.108 of the Government Code 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* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the district may withhold the submitted information under section 552.108(a)(2) of the Government Code. As noted above, the identity of a party who makes a report of abuse or neglect must be withheld under section 261.201(1)(3) of the Family Code. Fam. Code § 261.201(1)(3). Accordingly, in releasing the basic information, the district must withhold the reporting party’s identifying information pursuant to section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code.

In summary, if the requestor is not the parent of the child victim listed in the submitted information, then the district must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. If the requestor is the child victim’s parent, then with the exception of basic information, the district may withhold the submitted information under section 552.108(a)(2) of the Government Code. However, in releasing basic information, the district must

withhold the reporting party's identity under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family 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,



Jesse Harvey
Assistant Attorney General
Open Records Division

JH/eb

Ref: ID# 613671

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹Because the requestor has a right of access to information the district would be required to withhold from the general public, the district must request another decision if it receives another request for this same information from a different requestor. *See* Gov't Code §§ 552.301(a), .302.