



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 11, 2016

Ms. Andrea D. Russell  
Counsel for the City of Saginaw  
Taylor Olson Adkins Sralla Elam L.L.P.  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107

OR2016-10763

Dear Ms. Russell:

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# 609807.

The City of Saginaw (the "city"), which you represent, received a request for all records of police calls made by a named individual to a specified address during a specified time period. You state the city will redact some information pursuant to section 552.130(c) of the Government Code and Open Records Decision No. 684 (2009).<sup>1</sup> 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 some of the submitted information 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. 2016-05290 (2016). In that ruling, we determined the city must: (1) withhold certain information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code; (2) withhold certain information under section 552.101

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<sup>1</sup>Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See Gov't Code* § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information without the necessity of requesting an attorney general opinion.

of the Government Code in conjunction with common-law privacy; and (3) release the remaining information. Accordingly, we conclude the city must rely on Open Records Letter No. 2016-05290 as a previous determination and withhold or release the information at issue in accordance with that ruling.<sup>2</sup> *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 arguments against disclosure of the remaining information not subject to Open Records Letter No. 2016-05290.

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, such as section 261.201(a) 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 . . . 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

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<sup>2</sup>As our ruling is dispositive for this information, we need not address your arguments against its disclosure. Additionally, because the requestor has a right of access to some of the information released in the previous determination, the city must request another decision from this office if it receives another request for this same information from a different requestor. *See* Gov’t Code §§ 552.301(a), .302; *see also* Gov’t Code § 552.023(a) (person or person’s authorized representative has special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person’s privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself).

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). You state report number 1500023745 was used or developed in an investigation of alleged child abuse or neglect. Based on your representations and our review of the information at issue, we agree report number 1500023745 is subject to section 261.201 of the Family Code. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Family 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 note the requestor is a parent of the child victims listed in report number 1500023745. However, the requestor is alleged to have committed the alleged abuse or neglect in report number 1500023745. Thus, the requestor does not have a right of access to this report under section 261.201(k). *Id.* § 261.201(k). Accordingly, we conclude the city must withhold report number 1500023745 in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.<sup>3</sup> *See* Open Records Decision No. 440 at 2 (1986) (addressing predecessor statute). Although you also raise section 261.201 for report number 1600000656, you have failed to demonstrate any portion of report number 1600000656 was used or developed in an investigation of alleged or suspected child abuse or neglect under section 261.201(a)(2). Furthermore, you have not established report number 1600000656 is a report of alleged or suspected abuse or neglect made under section 261.201(a)(1). Therefore, the city may not withhold report number 1600000656 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

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 has 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 state report number 1600000656 relates to a concluded criminal investigation that did not result in a conviction or deferred adjudication. Based on your representations, we conclude section 552.108(a)(2) is applicable to report number 1600000656.

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.

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<sup>3</sup>As our ruling for this information is dispositive, we need not address your remaining arguments against its disclosure.

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 (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 1600000656 pursuant to section 552.108(a)(2) of the Government Code.

In summary, the city must rely on Open Records Letter No. 2016-05290 as a previous determination and withhold or release the information at issue in accordance with that ruling. The city must withhold report number 1500023745 in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. With the exception of basic information, which must be released, the city may withhold report number 1600000656 pursuant to section 552.108(a)(2) of the Government Code.

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,



Tim Neal  
Assistant Attorney General  
Open Records Division

TN/bw

Ref: ID# 609807

Enc. Submitted documents

c: Requestor  
(w/o enclosures)