



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 10, 2015

Ms. Mary Ann Powell
Counsel for the City of Stafford
Olson & Olson, L.L.P.
Wortham Tower - Suite 600
2727 Allen Parkway
Houston, Texas 77019-2133

OR2015-14013

Dear Ms. Powell:

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# 570865 (Ref. No. COS15-022).

The Stafford Police Department (the "department"), which you represent, received a request for three specified incident reports. We understand the department will redact information pursuant to sections 552.130(c) and 552.147(b) of the Government Code and Open Records Decision No. 670 (2001).¹ You claim the submitted information is excepted from disclosure

¹Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 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). Section 552.147(b) of the Government Code authorizes a governmental body to redact the social security number of a living person without the necessity of requesting a decision from this office under the Act. *See id.* § 552.147(b). Open Records Decision No. 670 authorizes all governmental bodies to withhold the current and former home addresses and telephone numbers, personal cellular telephone and pager numbers, social security numbers, and family member information of peace officers under section 552.117(a)(2) of the Government Code without the necessity of requesting an attorney general decision. ORD 670 at 6.

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 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 section 261.201 of the Family Code, which states:

(a) Except as provided by Section 261.203, the following information is confidential, is not subject to public release under Chapter 552, Government Code, 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). You state the submitted reports are excepted under section 261.201. However, you do not explain, and the report does not reflect, how report number 110222 was used or developed in an investigation under chapter 261. Since you have failed to demonstrate that section 261.201 of the Family Code is applicable to this information, the department may not withhold report number 110222 under section 552.101 of the Government Code on this basis. We find, however, that report numbers 111702 and 110993 were used or developed in investigations of alleged child abuse or neglect under chapter 261 of the Family Code. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Family Code chapter 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). In this case, the requestor is the parent of the child victim named in the reports. Section 261.201(k) states, however, an investigating agency may not withhold from the parent of a child who is the subject of reported abuse, information concerning the reported abuse that would otherwise be confidential under section 261.201(a), unless the parent requesting the information is alleged to have committed the abuse or neglect. *See id.* § 261.201(k). We note the requestor is alleged to have committed the abuse in report number 110993. Thus, the requestor does not have a right of access under section 261.201(k) to this information. *See id.* Accordingly, the department must withhold report number 110993 in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.² However, we note the requestor is not alleged to have committed the suspected abuse that is the subject of report number 111702. Thus, the department may not withhold report number 111702 on the basis of section 261.201(a). *See id.* § 261.201(k). However, section 261.201(l)(3) states the identity of the reporting party shall be withheld from disclosure. *Id.* § 261.201(l)(3). Further, section 261.201(l)(2) provides any information that is excepted from required disclosure under the Act or other law may still be withheld from disclosure. *Id.* § 261.201(l)(2). Therefore, we will address your remaining argument to withhold the remaining information in report number 111702 under section 552.108 of the Government 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 information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). The department states report numbers 111702 and 110222 pertain to cases that concluded in a result other than

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

convictions or deferred adjudications. Therefore, we agree section 552.108(a)(2) is applicable to the reports at issue.

However, 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. 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 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note basic information includes the identity of the complainant. See 531 S.W.2d at 186-88; see also Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). As noted above, section 261.201(1)(3) of the Family Code states that the identity of the reporting party must be withheld. See Fam. Code § 261.201(1)(3). Thus, with the exception of basic information, report numbers 111702 and 110222 may be withheld under section 552.108(a)(2) of the Government Code.³ However, in releasing basic information for report number 111702, the department must withhold the identifying information of the reporting party under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code.

In summary, the department must withhold report number 110993 in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. With the exception of basic information, the department may withhold report numbers 111702 and 110222 under section 552.108(a)(2) of the Government Code. However, in releasing basic information, the department must withhold the identifying information of the reporting party in report number 111702 under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code.⁴

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/>

³As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

⁴We note the requestor has a special right of access to some of the basic information being released pursuant to section 261.201(k) of the Family Code. Accordingly, if the department receives another request for this information from a different requestor, then the department should again seek a decision from this office.

[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,

A handwritten signature in black ink that reads "Britni Fabian". The signature is written in a cursive, flowing style.

Britni Fabian
Assistant Attorney General
Open Records Division

BF/bhf

Ref: ID# 570865

Enc. Submitted documents

c: Requestor
(w/o enclosures)