



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 4, 2017

Ms. Linda Pemberton
Paralegal
City of Killeen
P. O. Box 1329
Killeen, Texas 76540

OR2017-17647

Dear Ms. Pemberton:

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# 669663 (PIR #W022374).

The Killeen Police Department (the "department") received a request for five specified incident reports involving the requestor's client. 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. Section 552.101 encompasses information that is made confidential by statute. Section 261.201(a) of the Family Code provides as follows:

(a) 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 . . . 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.

Fam. Code § 261.201(a), (k). Upon review, we find incident report numbers 16-014711 and 16-014764 were used or developed in investigations of alleged or suspected child abuse or neglect conducted by the department. *See 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), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). Thus, based on our review, we find incident report numbers 16-014711 and 16-014764 are within the scope of section 261.201 of the Family Code. We note the requestor is the legal representative of a parent of the child victim listed in the submitted information, but the parent is alleged to have committed the alleged abuse or neglect. Thus, the requestor does not have a right of access to the submitted information under section 261.201(k). *Id.* § 261.201(k). Accordingly, the department must withhold incident report numbers 16-014711 and 16-014764 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.¹ *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning 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); Open Records Decision No. 434 (1986). You state the remaining information pertains to closed criminal investigations that did not result in convictions or deferred adjudications. Based on this representation, we agree section 552.108(a)(2) is applicable to the remaining information.

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

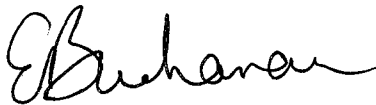
However, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic “front-page” information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). See also Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, which must be released, the department may withhold the remaining information under section 552.108(a)(2) of the Government Code.

In summary, the department must withhold incident report numbers 16-014711 and 16-014764 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. With the exception of basic information, the department may withhold the remaining information under section 552.108(a)(2) of the Government Code. The remaining information must be released.

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,



Emily Buchanan
Attorney
Open Records Division

EB/eb

Ref: ID# 669663

Enc. Submitted documents

c: Requestor
(w/o enclosures)