



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 2, 2009

Ms. Cheryl K. Byles
Mr. C. Patrick Phillips
Assistant City Attorneys
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2009-13914

Dear Mr. Phillips and Ms. Byles:

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# 357002 (FW PIR Nos. 4602-09 and 4867-09).

The City of Fort Worth and Fort Worth Police Department (collectively, the "city") received two requests from different requestors for several categories of information pertaining to a specified traffic accident. You state the city has provided some of the requested information to one of the requestors. You also state the city has no information responsive to the requests for specified video recordings.¹ You claim the submitted 9-1-1 call recordings, dispatch report, photographs, and partial incident report are excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.136 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 protected by other statutes, such as section 261.201 of the Family Code, which provides in relevant part:

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

(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.

Act of April 10, 1995, 74th Leg., R.S., ch. 20, § 1, 1995 Tex. Gen. Laws 113, 262, *amended* by Act of June 1, 2009, 81st Leg., R.S., ch. 779, § 1, 2009 Tex. Sess. Law Serv. 1965 (Vernon) (to be codified as an amendment to Fam. Code § 261.201(a)). The submitted information pertains to an investigation of a traffic accident. Although the information contains information regarding a child, you have not explained, nor does the information reflect, how the information was used or developed in an investigation of alleged child abuse or neglect. Consequently, you have failed to demonstrate the submitted information was used or developed in an investigation by the city's police department of child abuse or neglect under chapter 261. Therefore, the submitted information is not confidential under section 261.201 of the Family Code and may not be withheld under section 552.101 of the Government Code on that basis.

Section 552.108 of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information is related to a pending criminal investigation. Therefore, based on your representations, we conclude the release of the submitted information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g 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) (court delineates law enforcement interests that are present in active cases).

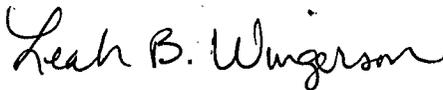
Section 552.108, however, does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*, and includes the identity of the complainant and a detailed description of the offense. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 (summarizing types of information considered to be basic information). We note the submitted information contains a computer-aided dispatch

("CAD") report. In Open Records Decision No. 649 (1996), this office concluded that information contained in a CAD report is substantially the same as basic information and, thus, is not excepted from public disclosure under section 552.108. See ORD 649 at 3; see also Open Records Decision No. 394 at 3 (1983) (no qualitative difference between information contained in police dispatch records or radio logs and front-page offense report information expressly held to be public in *Houston Chronicle*). Therefore, with the exception of the basic information contained in the CAD report, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code.² We note you have the discretion to release all or part of this information that is not otherwise confidential by law. *Id.* § 552.007.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 357002

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²As our ruling is dispositive, we need not address your remaining arguments against disclosure for portions of the information.