



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 2, 2010

Mr. Charles H. Weir  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283

OR2010-01599

Dear Mr. Weir:

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# 369230 (ORR 2009-4710).

The San Antonio Police Department (the "department") received a request for offense report number 90522482. You claim that the requested 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 that other statutes make confidential. You raise section 552.101 in conjunction with section 261.201 of the Family Code, which provides in part:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with [the Family 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 [chapter 261 of the Family Code] 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 [chapter 261 of the Family Code] or in providing services as a result of an investigation.

Fam. Code § 261.201(a). You contend report numbers 90522482-01 and 90522482-02 are confidential under section 261.201. We note, however, report number 90522482-02 pertains to an investigation of an assault causing bodily injury to an adult. Thus, this report is not confidential under section 261.201 of the Family Code and may not be withheld under section 552.101 of the Government Code. Upon review, we find report number 90522482-01 was used or developed in an investigation of alleged injury to a child. Accordingly, this information falls within the scope of section 261.201 of the Family Code. *See id.* § 261.001(1) (defining “abuse” for purposes of Fam. Code ch. 261). As you do not indicate that the department has adopted a rule that governs the release of information encompassed by section 261.201(a), we assume that no such rule exists. Given that assumption, we conclude that the department must withhold report number 90522482-01 in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a)(1) of the Family Code.

We note that section 261.201 provides that information encompassed by subsection (a) may be released to certain persons and entities under limited circumstances. *See* Fam. Code § 261.201. The requestor states that he is a court-appointed private investigator for the defendant from the incident at issue. However, the requestor has not demonstrated that he falls within any category of persons or entities authorized by section 261.201 to receive this ordinarily confidential information. *See id.* § 261.201(b)-(g) (listing entities that are authorized to receive 261.201 information). Accordingly, none of the information subject to section 261.201 may be released to the requestor.

Next, section 552.108 excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime. . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that report number 90522482-02 relates to a pending criminal investigation. Based on this representation, we conclude that release of this 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. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e.*, 536

S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Therefore, the department may generally withhold the information in report number 90522482-02 under section 552.108(a)(1) of the Government Code

We note, however, that basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. See Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Therefore, with the exception of basic information, the department may withhold report number 90522482-02 under section 552.108(a)(1) of the Government Code

In summary, (1) the department must withhold report number 90522482-01 in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code, and (2) with the exception of basic information, the department may withhold report number 90522482-02 under section 552.108(a)(1) 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.oag.state.tx.us/open/index\\_orl.php](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,



Tamara H. Holland  
Assistant Attorney General  
Open Records Division

THH/jb

Ref: ID# 369230

Enc. Submitted documents

c: Requestor  
(w/o enclosures)