



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

February 5, 2010

Mr. Whitt L. Wyatt
Assistant City Attorney
City of Richardson Police Department
P.O. Box 831078
Richardson, Texas 75083-1078

OR2010-01805

Dear Mr. Wyatt:

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# 369589 (Richardson file no. 09-861).

The Richardson Police Department (the "department") received a request for a specified incident report. You claim the submitted report is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note incident report number 09-080242 was used or developed in an investigation of alleged or suspected child abuse. Section 261.201(a) of the Family Code generally makes confidential working papers used or developed in investigations of child abuse or neglect. *See* Fam. Code § 261.201(a); *see also id.* § 261.001(1) (defining "abuse" for purposes of chapter 261 of the Family Code). 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 or neglect, information concerning the reported abuse or neglect that would otherwise be confidential under section 261.201(a), unless the parent of the child requesting the information is alleged to have committed the abuse or neglect. *Id.* § 261.201(k). In this instance, the requestor is the parent of the child victim listed in the report, and the requestor is not alleged to have committed the suspected abuse. As such, incident report number 09-080242 may not be withheld from this requestor under section 261.201(a). We also note section 261.201(l) provides that, notwithstanding section 261.201(k), any

information that is excepted from required disclosure under the Act or other law may still be withheld from disclosure. *Id.* § 261.201(1)(2). We will, therefore, consider your arguments against disclosure under sections 552.103 and 552.108 of the Government Code.

Section 552.108(a)(1) 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 claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state incident report number 09-080242 pertains to an active and pending criminal case and that release of this report would unduly interfere with the investigation, detection, and prosecution of this case. Based upon your representations and our review, we determine the release of incident report number 09-080242 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). Therefore, we conclude section 552.108(a)(1) is applicable to incident report number 09-080242.

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*. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, the department may withhold incident report number 09-080242 under section 552.108(a)(1).¹

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,

¹In this instance, the requestor has a special right of access pursuant to section 261.201(k) of the Family Code to the information being released. If the department receives another request for this same information from an individual who does not have a right of access to the information, the department should resubmit the information to us and request another ruling. *See* Gov’t Code §§ 552.301, .302; Open Records Decision No. 673 (2001). Additionally, as our ruling under section 552.108 of the Government Code is dispositive, we need not address your remaining argument under section 552.103 for this information, except to note that section 552.103 generally does not except from disclosure the same basic information that must be released under section 552.108(c). *See* Open Records Decision No. 597 (1991).

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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,



Jessica Eales
Assistant Attorney General
Open Records Division

JCE/eeg

Ref: ID# 369589

Enc. Submitted documents

c: Requestor
(w/o enclosures)