



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 11, 2010

Mr. Robert E. Reyna
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

OR2010-06724

Dear Mr. Reyna:

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# 379065 (COSA File No. 2010-5231).

The San Antonio Police Department (the "department") received a request for information related to offense report number 70239905. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We first note the submitted report reflects it was used or developed in an investigation of alleged 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)(E) (definition of "abuse" includes indecency with a child under section 21.11, Penal 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 mother of the child victim listed in the report and is not alleged to have committed the suspected abuse. As such, the submitted information may not be withheld from this requestor under section 261.201(a). Section 261.201(1)(2) states, however, that any information excepted from required disclosure under the Act or other law may still be withheld from disclosure. *Id.* § 261.201(1)(2). Thus, because you raise 552.108 of the Government Code, we will address your argument under this section.

Section 552.108(a)(1) 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.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform this office the submitted investigation file pertains to an open case and that release of the file at this time would interfere with the investigation and prosecution of that case. Based on your representations and our review, we determine section 552.108(a)(1) is generally applicable to the submitted information. *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).

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). Basic information refers to the information held to be public in *Houston Chronicle*. *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information which must be released to this requestor, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.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, 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,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/eeg

¹The basic information being released includes information that would be confidential to the general public to which the requestor has a right of access. Thus, if the department receives another request for the same information from a different requestor, it must again seek a ruling from this office.

Ref: ID# 379065

Enc. Submitted documents

cc: Requestor
(w/o enclosures)