



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 18, 2010

Mr. Peter G. Smith  
City Attorney  
City of Richardson  
P.O. Box 831078  
Richardson, Texas 75083-1078

OR2010-07108

Dear Mr. Smith:

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# 379674 (Richardson File No. 10-163).

The City of Richardson (the "city") received a request for two specified offense reports. You claim that the requested information is excepted from disclosure under sections 552.101, 552.103, 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 made confidential by other statutes, including section 261.201 of the Family Code, which provides in relevant part:

(a) Except as provided by Section 261.203, the 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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the department or the Texas Youth Commission, 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.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

...

(2) any information that is excepted from required disclosure under [the Act], or other law; and,

(3) the identity of the person who made the report.

Fam. Code § 261.201(a), (k), (l). Upon review, we find the submitted reports pertain to investigations of alleged or suspected child abuse by the city's police department and consist of files, reports, records, communications, and working papers used or developed in the investigation. *See id.* § 261.001(1)(E) (definition of child abuse includes sexual assault under Penal Code section 22.011); *see also* Penal Code § 22.011(c)(1) (defining "child" for purposes of Penal Code section). Therefore, we find that the submitted information is within the scope of section 261.201 of the Family Code. We note the requestor is the mother of the alleged child victim in the submitted reports, and she is not alleged to have committed the offenses. Pursuant to section 261.201(k), the city may not withhold the submitted reports from this requestor under section 261.201(a). Section 261.201(l)(3), however, states the identity of the reporting party must be withheld. Fam. Code § 261.201(l)(3). Thus, the city must withhold the reporting party's identity under section 552.101 in conjunction with section 261.201(l)(3). In addition, section 261.201(l)(2) states any information that is excepted from required disclosure under the Act or other law may still be withheld from disclosure. Fam. Code § 261.201(l)(2). Thus, because you also assert the submitted

information is excepted under section 552.101 in conjunction with section 58.007 of the Family Code and sections 552.103 and 552.108 of the Government Code, we will address your arguments under these exceptions for the submitted reports.

Section 552.101 of the Government Code also encompasses section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. The relevant language of section 58.007 reads:

(c) Except as provided by subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

Fam. Code § 58.007(c). Law enforcement records relating to juvenile delinquent conduct that occurred on or after September 1, 1997 are confidential under section 58.007 of the Family Code. *See id.* § 51.03 (defining “delinquent conduct” for purposes of title 3 of the Family Code). For purposes of section 58.007(c), “child” means a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). Report number 09-074634 involves a juvenile engaged in delinquent conduct that occurred after September 1, 1997. You do not indicate, nor does it appear, that any of the exceptions in section 58.007 apply to this information. Thus, report number 09-074634 is confidential in its entirety pursuant to section 58.007(c) and must be withheld under section 552.101.<sup>1</sup>

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). 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.*

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<sup>1</sup>As our ruling is dispositive for this information, we need not address your remaining argument against its disclosure.

§§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state report number 05-063693 relates to a pending criminal investigation by the city's police department. Based upon this representation and our review of the information at issue, we conclude the release of report number 05-063693 would interfere with the detection, investigation, or prosecution of a 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).

However, we note 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* 531 S.W.2d at 186-88. Basic information includes the identity of the complainant. *See* 531 S.W.2d at 186-87. However, as noted above, section 261.201(l)(3) of the Family Code states the reporting party's identity must be redacted before a child's parent may inspect or copy a record or file concerning the child under section 261.201(k). *See* Fam. Code § 261.201(l)(3). Thus, with the exception of basic information, the city may withhold report number 05-063693 under section 552.108(a)(1) of the Government Code. However, in releasing basic information, the city must withhold the reporting party's identifying information under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code. The remaining basic information must be released.<sup>2</sup>

In summary, report number 09-074634 is confidential pursuant to section 58.007(c) and must be withheld in its entirety under section 552.101. With the exception of basic information, the city may withhold report number 05-063693 under section 552.108(a)(1) of the Government Code. However, in releasing basic information, the city must withhold the reporting party's identifying information under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code. The remaining basic information in report number 05-063693 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.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

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<sup>2</sup>As our ruling under section 552.108 is dispositive, we need not address your remaining argument against disclosure, except to note that basic information may generally not be withheld from public disclosure under section 552.103. Open Records Decision No. 597 (1991).

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 Wilcox  
Assistant Attorney General  
Open Records Division

TW/dls

Ref: ID# 379674

Enc. Submitted documents

c: Requestor  
(w/o enclosures)