



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 26, 2010

Mr. R. Kinley Hegglund, Jr.  
Senior Assistant City Attorney  
City of Wichita Falls  
P.O. Box 1431  
Wichita Falls, Texas 76307

OR2010-07645

Dear Mr. Hegglund:

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# 380799 (City ID# 68).

The Wichita Falls Police Department (the "department") received two requests from the same requestor for records involving a specified address during a specified period. You claim the submitted 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.

First, you contend submitted report number 09-091405 is confidential in its entirety pursuant to section 552.101 of the Government Code, which 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:

(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.

Fam. Code § 261.201(a). Submitted report number 09-091405 pertains to the department's investigation of a disturbance involving an adult with a weapon. However, you have not demonstrated how this report pertains to a report of alleged or suspected abuse or neglect made under chapter 261 of the Family Code or how it was used or developed in any investigation conducted under chapter 261. *See id.* § 261.001(1) (defining "abuse"), (4) (defining "neglect"). Thus, we determine report number 09-091405 is not within the scope of section 261.201 of the Family Code and may not be withheld under section 552.101 on that basis. However, one of the submitted dispatch records contains a report of suspected child abuse. *See id.* 261.001(1). You do not inform us, and we are not aware, that the department has adopted a rule governing the release of this type of information; therefore we assume no such rule exists. We have marked the report of suspected child abuse that is confidential under section 261.201(a)(1), which the department must withhold under section 552.101 of the Government Code. *See Open Records Decision No. 440 at 2 (1986) (predecessor statute).*

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 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 provide a letter from a lieutenant with the department representing the submitted information related to report numbers 09-080888, 09-091405, 09-091469, 09-091872, 09-110273, 09-111100, and 09-111414 pertains to open cases that are under investigation. The letter also states release of this information at this time would interfere with the detection, investigation, and prosecution of the crimes at issue in those reports. Based on these representations and our review, we determine release of most of the remaining 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).

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, the department may withhold report numbers 09-080888, 09-091405, 09-091469, 09-091872, 09-110273, 09-111100, and 09-111414; as well as the related dispatch records, under section 552.108(a)(1).

In summary, the department must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. With the exception of basic information, which must be released, the department may withhold report numbers 09-080888, 09-091405, 09-091469, 09-110273, 09-111100, and 09-111414, and the related dispatch records, under section 552.108(a)(1) of the Government Code. As you raise no other exceptions to disclosure, the remaining information 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 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

Ref: ID# 380799

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)