



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 25, 2010

Ms. YuShan Chang
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2010-09390

Dear Ms. Chang:

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# 384369.

The Houston Police Department (the "department") received a request for report numbers 4646508, 109446609, 137856808, 139245808, and 145356607. You state the "public release information" portion of the reports will be released to the requestor.¹ You claim the submitted reports are excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted reports.

Initially, we note report number 109446609 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

¹We assume that the "public release information" you will release is the basic information referred to under section 552.108(c) of the Government Code. Gov't Code § 552.108(c) (basic information about an arrested person, and arrest, or a crime is not excepted from disclosure under section 552.108); *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information).

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 109446609 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(l)(2). We will, therefore, consider your argument against disclosure under section 552.108 of the Government Code for report number 109446609 and the other submitted reports.

You assert report number 137856808 is excepted from disclosure under section 552.108(a)(1) 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.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state this report relates to a criminal investigation that is inactive. You also inform us that the statute of limitations has not run, and this investigation may be reactivated once additional leads are developed. Based on your representations and our review, we conclude the release of this report 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, with the exception of basic information, which you state the department will release, report number 137856808 may be withheld under section 552.108(a)(1).

You also assert the remaining reports are excepted from disclosure under section 552.108(a)(2) of the Government Code. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state the remaining reports pertain to criminal investigations that concluded in a result other than conviction or deferred adjudication. Based on your representations and our review, we agree section 552.108(a)(2) is applicable to the remaining reports. Accordingly, with the exception of basic information, which you state the department will release, report numbers 4646508, 109446609, 139245808, and 145356607 may be withheld under section 552.108(a)(2) of the Government Code.

In summary, with the exception of basic information, the submitted reports may be withheld under section 552.108 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, 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,



Jessica Eales
Assistant Attorney General
Open Records Division

JCE/eeg

Ref: ID# 384369

Enc. Submitted documents

c: Requestor
(w/o enclosures)