



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 29, 2010

Ms. P. Armstrong  
Assistant City Attorney  
Criminal Law and Police Division  
City of Dallas  
1400 South Lamar  
Dallas, Texas 75215

OR2010-09583

Dear Ms. Armstrong:

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# 384685 (DPD ORR No. 2010-03511).

The Dallas Police Department (the "department") received a request for offense reports, photographs, 9-1-1 call sheets, and investigative files of incidents involving family violence and disturbances which occurred at a specified address during a specified time period. You claim portions of the submitted information are 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 representative sample information.<sup>1</sup>

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 as follows:

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<sup>1</sup>We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(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 of Family and Protective Services] 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 of the submitted information, we find it consists of files, reports, records, communications, audiotapes, videotapes, or working papers used or developed in an investigation under chapter 261. *See id.* § 261.001(1)(C) (definition of child abuse includes physical injury that results in substantial harm to the child); *see also id.* § 101.003(a) (defining "child" for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority

removed for general purposes). Thus, we find the submitted information is generally confidential under section 261.201. In this instance, however, the requestor is the mother of the child victim listed in the report, and she is not alleged to have committed the alleged or suspected abuse. Accordingly, in this instance, the department may not use section 261.201(a) to withhold this report from this requestor. *See id.* § 261.201(k). However, section 261.201(l)(3) provides the identity of the reporting party must be withheld when a governmental body releases information under section 261.201(k); therefore, the department must withhold the information we have marked under section 552.101 in conjunction with section 261.201(l)(3). *Id.* § 261.201(l)(3). Additionally, section 261.201(l)(2) provides that before a parent may inspect or copy a record concerning the child, 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). Thus, because you may not withhold the submitted information in its entirety from the child victim's mother under section 261.201(a), and you also assert section 552.101 and section 552.108 of the Government Code for portions of the remaining information, we will address your arguments under these sections.

Section 552.101 of the Government Code also encompasses section 411.083 of the Government Code which pertains to criminal history record information ("CHRI") generated by the National Crime Information Center or by the Texas Crime Information Center. Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that state agencies obtain from the federal government or other states. *See* Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *See id.* Section 411.083 deems confidential CHRI the Department of Public Safety ("DPS") maintains, except DPS may disseminate this information in accordance with chapter 411, subchapter F of the Government Code. *See* Gov't Code § 411.083. Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may only release CHRI to another criminal justice agency for a criminal justice purpose. *See id.* § 411.089(b)(1). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release CHRI except as provided by chapter 411. *See generally id.* §§ 411.090-.127. Furthermore, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 in conjunction with Government Code chapter 411, subchapter F. Upon review, we agree the department must withhold the information you have marked under section 552.101 in conjunction with section 411.083. *See id.* § 411.083(b)(3).

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),

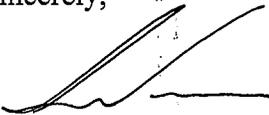
.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information relates to a pending criminal prosecution. Based on this representation, we conclude the release of this information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. 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). Accordingly, the department may withhold the information you marked under section 552.108(a)(1).

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(1)3) of the Family Code. The department must also withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. The department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The remaining information must be released.<sup>2</sup>

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,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/eeg

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<sup>2</sup>Because the requestor has a special right of access to information that would ordinarily be confidential, the department must again seek as decision from this office if it receives another request for the same information from a different requestor.

Ref: ID# 384685

Enc. Submitted documents

c: Requestor  
(w/o enclosures)