



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 19, 2010

Mr. Samuel D. Hawk  
Assistant City Attorney  
Criminal Law and Police Section  
City of Dallas  
1400 South Lamar  
Dallas, Texas 75215

OR2010-10698

Dear Mr. Hawk:

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# 387937 (ORR #2010-4432).

The Dallas Police Department (the "department") received 3 requests from the same requestor for police report numbers 337056-W, 321807-W, and 308142-W. You claim that portions of the requested information are excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of 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."<sup>2</sup> Gov't

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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 those records contain substantially different types of information than that submitted to this office.

<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Code § 552.101. This section encompasses information protected by other statutes, such as section 261.201(a) of the Family Code, which provides as follows:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, 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). We note incident report 0337056-W consists of an investigation of child endangerment. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for the purposes of chapter 261 of the Family Code); Penal Code § 22.041(b), (c). Thus, we find that report is within the scope of section 261.201 of the Family Code. You have not indicated that the department has adopted a rule that governs the release of this type of information. Therefore, we assume that no such regulation exists. Given that assumption, incident report 0337056-W is confidential pursuant to section 261.201 of the Family Code. *See Open Records Decision No. 440 at 2 (1986) (predecessor statute)*. Accordingly, the department must withhold incident report 0337056-W from disclosure under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.<sup>3</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). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state reports 321807-W and 308142-W relate to a pending criminal investigation and prosecution. Based on this representation, we conclude the release of the information you have marked in these reports 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). Therefore, we

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<sup>3</sup>As our ruling is dispositive for this information, we need not address your remaining arguments against its disclosure.

find the department may withhold the information you have marked in these reports under section 552.108(a)(1).

Section 552.130 of the Government Code excepts from disclosure “information [that] relates to . . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state[.]” Gov’t Code § 552.130(a)(1), (2). You have marked information you seek to withhold under section 552.130. In this instance, we note the requestor is an insurance claims adjuster and appears to be an agent of the insurance company providing coverage for the individual listed as the victim in the submitted information. Therefore, if the requestor is acting as the victim’s authorized representative, then the requestor has a right of access to the victim’s Texas motor vehicle record information under section 552.023 of the Government Code, and the victim’s information may not be withheld from the requestor under section 552.130 of the Government Code. *See id.* § 552.023(a) (person or person’s authorized representative has a special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests). In that instance, the department must withhold the remaining information you have marked that does not pertain to the victim under section 552.130 of the Government Code. If the requestor is not the authorized representative of the victim, then the department must withhold the entirety of the information you have marked, as well as the additional information we have marked, under section 552.130 of the Government Code.<sup>4</sup>

In summary, the department must withhold incident report 0337056-W from disclosure under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The department may withhold the information you have marked in reports 321807-W and 308142-W under section 552.108(a)(1). If the requestor is not the authorized representative of the victim, then the department must withhold the entirety of the information you have marked, as well as the additional information we have marked, under section 552.130 of the Government Code. 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.

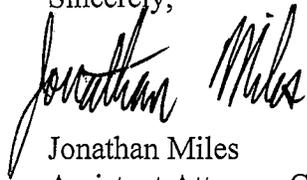
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General’s Open Government Hotline, toll free,

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<sup>4</sup>We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver’s license numbers and Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

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,

A handwritten signature in black ink, appearing to read "Jonathan Miles". The signature is written in a cursive style with a large initial "J" and "M".

Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/jb

Ref: ID# 387937

Enc. Submitted documents

c: Requestor  
(w/o enclosures)