



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 17, 2010

Mr. Mack Reinwand
Assistant City Attorney
Arlington Police Department
P.O. Box 1065
Arlington, Texas 76004-1065

OR2010-12420

Dear Mr. Reinwand:

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# 390949 (Police Dept. Ref. No. 1136-060910).

The Arlington Police Department (the "department") received a request for all calls made at a specified address from August 1, 2009 to the present, as well as two specified police reports. You claim that 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.

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. This exception encompasses information that other statutes make confidential, such as section 261.201 of the Family Code, which provides in part:

- (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 [the Family 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 [chapter 261 of the Family Code] 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 [chapter 261 of the Family Code] or in providing services as a result of an investigation.

Fam. Code § 261.201(a). We find that the submitted report in Exhibit C was used or developed in an investigation of alleged child abuse under chapter 261 of the Family Code, so as to fall within the scope of section 261.201(a). *See id.* § 261.001(1)(E) (defining “abuse,” for purposes of Fam. Code ch. 261, as including indecency with a child under Penal Code section 21.11); *see also* Penal Code § 21.11 (a) (defining “child” for purposes of Penal Code section 21.11 as a person younger than 17 years of age). As you do not indicate that the department has adopted a rule that governs the release of this type of information, we assume that no such rule exists. Given that assumption, we conclude that the department must withhold the report in Exhibit C in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.¹ *See* Open Records Decision No. 440 at 2 (1986) (addressing predecessor statute).

Section 552.108 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 that the reports in Exhibit B are related to pending and open criminal investigations. Based on this representation and our review, we conclude that section 552.108(a)(1) is applicable to Exhibit B in this instance. *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).

We note that 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). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88. The department must release basic information, including a detailed description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing

¹As our ruling is dispositive of this information, we need not address your argument against its disclosure.

types of information deemed public by *Houston Chronicle*). The department may withhold the rest of the submitted information in Exhibit B under section 552.108(a)(1).

In summary, the department must withhold the report in Exhibit C under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. With the exception of basic information, the department may withhold the reports in Exhibit B under section 552.108(a)(1) 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,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

Ref: ID# 390949

Enc. Submitted documents

c: Requestor
(w/o enclosures)