



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 5, 2010

Ms. T. Trisha Dang
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, TX 78469-9277

OR2010-16808

Dear Ms. Dang:

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# 399312.

The Corpus Christi Police Department (the "department") received a request for a specified case report. You claim that the requested 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. Section 552.101 encompasses section 261.201 of the Family Code, which provides as follows:

- (a) Except as provided by Section 261.203, the 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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas 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:

(1) any personally identifiable information about a victim or witness under 18 years of age unless that victim or witness is:

(A) the child who is the subject of the report;

or

(B) another child of the parent, managing conservator, or other legal representative requesting the information;

(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). We note the submitted information was used or developed in an investigation into alleged child abuse or neglect. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Family Code ch. 261); *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). Therefore, we find the information at issue is generally confidential under section 261.201 of the Family Code. However, the requestor is a parent of four of the child victims listed in the information, and this parent is not alleged to have committed the suspected abuse. As such, the department may not use section 261.201(a) to withhold the information at issue from this requestor. *Id.* § 261.201(k). We note, however, section 261.201(l) provides that before a parent can copy and inspect a record of a child under 261.201(k), any personally identifiable information about a victim or witness under 18 years of age who is not the parent’s child and the identity of the party who made the report must be redacted. *Id.* § 261.201(l)(1), (3). Further, section 261.201(l)(2) 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). You assert the submitted information is excepted from public disclosure under section 552.108 of the Government Code. Accordingly, we will consider your argument against disclosure under this exception.

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(a)(1) 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 that the submitted information relates to an active criminal investigation. Based on your representation and our review, we conclude that the release of the 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). Accordingly, section 552.108(a)(1) is applicable to the information at issue.

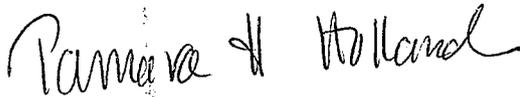
As you acknowledge, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note basic information includes, among other items, an identification and description of the complainant and a detailed description of the offense, but does not include the identities of victims or witnesses. *See* ORD 127 at 3-4. As noted above, section 261.201(l)(3) of the Family Code states the identity of the reporting party shall be

withheld from disclosure. Fam. Code § 261.201(1)(3). Thus, with the exception of the basic information, the department may withhold the submitted information from disclosure under section 552.108(a)(1) of the Government Code. In releasing the basic information, the department must withhold the identity of the reporting party under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family 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,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/em

Ref: ID# 399312

Enc. Submitted documents

c: Requestor
(w/o enclosures)