



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 8, 2010

Mr. Floyd M. Akers
City Attorney
Pflugerville Police Department
P.O. Box 679
Pflugerville, Texas 402348

OR2010-18435

Dear Mr. Akers:

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# 402348.

The Pflugerville Police Department (the "department") received a request for information relating to an incident at the requestor's address. You state some of the requested information has been released. You claim the rest of the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."¹ Gov't Code § 552.101. This exception encompasses information other statutes make confidential. Section 261.201(a) of the Family Code 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 [the Family Code] and applicable federal or state law or under rules adopted by an investigating agency:

¹This office will raise section 552.101 on behalf of a governmental body, as this exception is mandatory and may not be waived. See Gov't Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

- (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 some of the submitted information was used or developed in an investigation under chapter 261 of the Family Code or in providing services as a result of an investigation, so as to fall within the scope of section 261.201(a)(2). *See id.* §§ 101.003 (defining child for purposes of Fam. Code tit. 5); 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Fam. Code ch. 261). As you do not indicate the department has adopted a rule that governs the release of this type of information, we assume no such rule exists. Given that assumption, we conclude the department must withhold the offense/incident report for case number 10090418 and the related call sheet report in their entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.² *See Open Records Decision No. 440 at 2 (1986) (addressing predecessor statute).*

Next, we address your claim under section 552.108 of the Government Code for the remaining information at issue. Section 552.108(a)(1) 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(a)(1) 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 indicate the remaining information is related to a pending criminal case. Based on your representations, we find section 552.108(a)(1) is generally applicable to the remaining information. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e.*, 536 S.W.2d 559 (Tex. 1976).

We note 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* and includes, among other things, a detailed description of the offense and information relating to the arrested person. *See Houston Chronicle*, 531 S.W.2d at 186-88; *Open Records Decision*

²We note that because section 261.201(a) protects all “files, reports, records, communications, audiotapes, videotapes, and working papers” relating to an investigation under chapter 261 of the Family Code, basic front-page information must not be released in such cases.

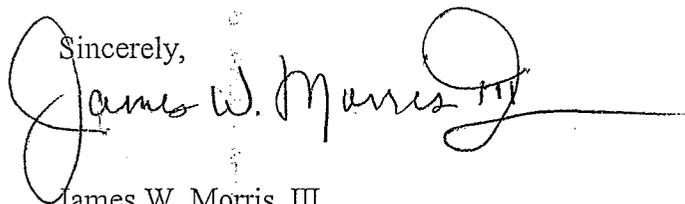
No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). The department must release basic offense and arrest information, even if the information does not literally appear on the front page of an offense or arrest report. The department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

In summary: (1) the department must withhold the submitted offense/incident report for case number 10090418 and the related call sheet report in their entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code; and (2) the department may withhold the remaining information under section 552.108(a)(1) of the Government Code, except for basic information under section 552.108(c).

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,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 402348

Enc: Submitted documents

c: Requestor
(w/o enclosures)