



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 6, 2011

Mr. Mark G. Mann
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR2011-07992

Dear Mr. Mann:

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# 419657 (GCA11-0220).

The Garland Police Department (the "department") received a request for report 2011R003094. You state the department has released most of the requested information. You claim the marked portions of the submitted report are excepted from disclosure under section 552.108 of the Government Code. We have considered the exception 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 protected by other statutes, such as section 261.201 of the Family Code. Section 261.201(a) generally makes confidential working papers used or developed in investigations of child abuse or neglect. *See* Fam. Code § 261.201(a). Upon review, we find the submitted information was used or developed in an investigation by the department of child abuse for purposes of section 261.201. *See id.* § 261.001(1)(C) (definition of child abuse includes "physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury 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, this information is subject to section 261.201. Section 261.201(k) provides, however, an investigating agency may not withhold from the parent of the child victim, information concerning the reported abuse or neglect, unless the parent is alleged to have committed the abuse or neglect. *See id.* § 261.201(k). In this instance, the requestor is the parent of the child victim listed in the

submitted information. Furthermore, the parent is not accused of committing the alleged abuse. Accordingly, the submitted information may not be withheld from the requestor under section 261.201(a). *See id.* Section 261.201(1)(2) states, however, that any information excepted from required disclosure under the Act or other law may still be withheld from disclosure. *See id.* § 261.201(1)(2). Thus, because you raise section 552.108 of the Government Code for the marked information, we will address your argument against disclosure.

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 report pertains to an alleged criminal offense which is currently being investigated by the department. Based on your representations and our review, we conclude the release of the marked information would interfere with the detection, investigation, or prosecution of this crime. *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. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, the department may withhold the marked portions of the submitted report 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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/eb

Ref: ID# 419657

Enc. Submitted documents

c: Requestor
(w/o enclosures)