



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 21, 2011

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

OR2011-08777

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# 421193 (GCA 11-0266).

The Garland Police Department (the "department") received a request for two specified reports pertaining to a particular incident. You state you have released some of the requested information. You claim that portions of the submitted 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 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."¹ Gov't Code § 552.101. Section 552.101 encompasses information protected by other statutes, such as section 261.201 of the Family Code. Section 261.201 provides as follows:

(a) [T]he following information is confidential, is not subject to public release under [the Act] 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

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

(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). Upon review, we find report number 2011R-005504 was used or developed in an investigation of child endangerment. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code); *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, this information falls within the scope of section 261.201(a). As you do not state the department has adopted a rule that governs the release of this type of information, we assume that none exists. Given that assumption, we conclude that report number 2011R-005504 is confidential under section 261.201(a) of the Family Code, and the department must withhold it in its entirety under section 552.101 of the Government Code.² *See* Open Records Decision No. 440 at 2 (1986) (addressing predecessor statute).

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 report number 2011R-005503 relates to a pending criminal case. Based on your representation and our review, we conclude that the release of the information you have marked in red 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) (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). Accordingly, the department may withhold the information you have marked in red in report number 2011R-005503 under section 552.108(a)(1) of the Government Code.

You state you have redacted certain Texas motor vehicle record information under section 552.130 of the Government Code pursuant to the previous determination issued in Open Records Decision No. 684 (2009).³ Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator’s or driver’s license or

²As we make this determination, we do not address your remaining claims for this information.

³We note Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas license plate number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

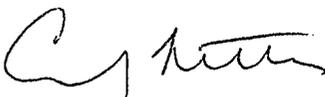
permit or a motor vehicle title or registration issued by an agency of this state. *See* Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130). You have marked information in green in the remaining information that you seek to withhold under section 552.130 of the Government Code. Accordingly, the department must withhold the remaining Texas motor vehicle record information you have marked in green under section 552.130 of the Government Code.

In summary, report number 2011R-005504 is confidential under section 261.201(a) of the Family Code, and the department must withhold it in its entirety under section 552.101 of the Government Code. The department may withhold the information you have marked in red in report number 2011R-005503 under section 552.108(a)(1) of the Government Code. The department must withhold the remaining Texas motor vehicle record information you have marked in green under section 552.130 of the Government Code. The remaining information in report number 2011R-005503 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, 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 421193

Enc. Submitted documents

c: Requestor
(w/o enclosures)