



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 23, 2011

Mr. Robert G. Schleier, Jr.  
Counsel for City of Kilgore  
Law Office of Robert G. Schleier, Jr., P.C.  
116 North Kilgore Street  
Kilgore, Texas 75662

OR2011-13767

Dear Mr. Schleier:

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# 430911.

The Kilgore Police Department (the "department"), which you represent, received a request for the police report relating to case number 80403468. You claim some of the submitted information is 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 exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."<sup>1</sup> Gov't Code § 552.101. Section 552.101 encompasses section 261.201 of the Family Code, which 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:

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

(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:

...

(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)(2)-(3). Upon review, we find the submitted information relates to an investigation of suspected child abuse. *See id.* § 261.001(1)(E) (defining “abuse” for purposes of chapter 261 of the Family Code as including offense of sexual assault under section 22.011 of the Penal Code); *see also* Penal Code § 22.011 (defining “child” for purposes of sexual assault of a child as person under 17 years of age). Thus, the submitted information is generally confidential under section 261.201 of the Family Code. However, the requestor is a parent of the child victim, and she is not alleged to have committed the alleged or suspected abuse. Thus, in this instance, the department may not use section 261.201(a) to withhold the submitted information from this requestor. Fam. Code § 261.201(k). We note section 261.201(1)(3) states the identity of the reporting party must be withheld. *Id.* § 261.201(1)(3). Accordingly, the department must withhold the

identifying information of the reporting party under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code. Further, section 261.201(1)(2) states any information that is excepted from required disclosure under the Act or other law must be withheld from disclosure. *Id.* § 261.201(1)(2). Accordingly, we will consider your arguments under section 552.108 of the Government Code.

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). Generally, 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 seek to withhold the narrative portion of the submitted report. You state the information at issue relates to an active criminal investigation. Based upon your representations and our review, we conclude that release of the information at issue 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). Thus, section 552.108(a)(1) is generally applicable to the information at issue.

However, 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; *see also* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note basic information does not include information subject to section 552.130 of the Government Code. Although you seek to withhold the entire narrative under section 552.108(a)(1), basic information includes a detailed description of the offense. *See id.* Therefore, with the exception of a detailed description of the offense, the department may withhold the narrative portion of the submitted report under section 552.108(a)(1) of the Government Code.

We note the remaining information contains information subject to section 552.130 of the Government Code. Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or another state or country. Act of May 24, 2011, 82<sup>nd</sup> Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov’t Code § 552.130). Upon review, we find the department must withhold the driver’s license number we have marked in the remaining information under section 552.130.

In summary, the department must withhold the identifying information of the reporting party under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of

the Family Code. With the exception of a detailed description of the offense, the department may withhold the narrative portion of the submitted report under section 552.108(a)(1) of the Government Code. The department must withhold the driver's license information we have marked under section 552.130 of the Government Code. The remaining information must be released to this requestor.<sup>2</sup>

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](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,



Vanessa Burgess  
Assistant Attorney General  
Open Records Division

VB/dls

Ref: ID# 430911

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We note that the requestor has a special right of access to the information being released in this instance. Because such information is confidential with respect to the general public, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.