



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 19, 2011

Ms. Jerris Penrod Mapes
Assistant City Attorney
Killeen Police Department
3304 Community Boulevard
Killeen, Texas 76542

OR2011-15258

Dear Ms. Mapes:

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# 433671 (W006074).

The Killeen Police Department (the "department") received a request for information pertaining to incident report number 11-006183. You claim 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 representative sample of information.¹

Initially, we note the submitted incident report number 11-006183 reflects the department investigated the incident as an alleged child abuse case. Thus, the requested information is confidential under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.² *See* Fam. Code § 261.201(a) (providing information used or developed in investigation of alleged or suspected child abuse or neglect is

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and, therefore, does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

²Section 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 section encompasses information other statutes make confidential.

confidential). In this instance, however, the requestor is a parent of the child victim listed in the report, and the parent is not alleged to have committed the suspected abuse. As such, the requested information may not be withheld from this requestor under section 261.201(a).³ *Id.* § 261.201(k) (providing child's parent can obtain information that is subject to section 261.201(a) concerning reported abuse or neglect of child as long as parent is not alleged to have committed abuse or neglect). Section 261.201(l)(2), however, provides 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). We will, therefore, consider your argument against disclosure under section 552.108 of the Government Code.

Section 552.108(a)(2) 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 . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(a)(2). Section 552.108(a)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in a conviction or deferred adjudication. A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information regarding report number 11-006183 pertains to a concluded criminal investigation that did not result in a conviction or deferred adjudication. Based on your representations and our review, we agree section 552.108(a)(2) is applicable to this information.

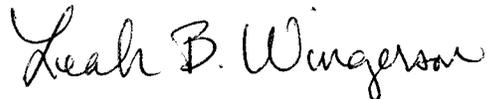
Section 552.108, however, does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), and includes a detailed description of the offense. *See* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the department may withhold the requested information pertaining to report number 11-006183 under section 552.108(a)(2) 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.

³Because the requested information would otherwise be excepted from release under the Act, the department must again seek a decision from this office if it receives a request for this information from a different requestor.

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,

A handwritten signature in black ink that reads "Leah B. Wingerson". The signature is written in a cursive, flowing style.

Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 433671

Enc. Submitted documents

c: Requestor
(w/o enclosures)