



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 31, 2011

Ms. Tiffany Bull
Assistant Police Legal Advisor
Arlington Police Department
P.O. Box 1065
Arlington, Texas 76004-1065

OR2011-15976

Dear Ms. Bull:

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# 434645-11(Police Department Reference No. 5032-082311).

The Arlington Police Department (the "department") received a request for Report No. 110028264. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 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." Gov't Code § 552.101. Section 552.101 encompasses information that other statutes make confidential, such as section 261.201 of the Family Code, which provides in relevant part 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

(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 . . . 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:

(1) any personally identifiable information about a victim or witness under 18 years of age unless that victim or witness is:

(A) the child who is the subject of the report; or

(B) another child of the parent, managing conservator, or other legal representative requesting the information;

(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). You assert the requested information is confidential under section 261.201 and the requestor is not entitled to receive the information under that statute. The submitted information reflects it was used or developed by the city in an investigation of suspected child abuse or neglect. *See id.* §§ 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code), 101.003(a) (defining “child” for purposes of section 261.201 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). Accordingly, the submitted information is within the scope of section 261.201(a) of the Family Code.

However, the requestor may be a parent, managing conservator, or other legal representative of the child victim listed in the report, and the requestor is not alleged to have committed the alleged abuse or neglect. As such, this requestor may have a right of access to the submitted report pursuant to section 261.201(k). As we are unable to determine whether the requestor is a parent, managing conservator, or other legal representative of the child victim, we will rule conditionally.

If the requestor is not a parent, managing conservator, or other legal representative of the child victim listed in the submitted information, the department must withhold the submitted report under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. If the requestor is a parent, managing conservator, or legal representative of the child victim, pursuant to section 261.201(k), the department may not withhold the submitted report from the requestor under section 261.201(a). *Id.* § 261.201(k). However, section 261.201(l) provides that before a parent, managing conservator, or other legal representative of the child victim may obtain a copy of or inspect a record of a child under section 261.201(k), the identity of the party who made the report must be redacted. *Id.* § 261.201(l), (3). We have marked information that identifies the party who made the report. Section 261.201(l)(2) also states any information that is excepted from required disclosure under the Act or other law must also be withheld from disclosure. Accordingly, we will consider your claim under section 552.108 to the extent the requestor is the parent, managing conservator, or other legal representative of the child victim and, consequently, has a right to the information pursuant to section 261.201(k) of the Family 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). 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 the submitted information pertains to a criminal investigation that is open and pending. Based on your representation, we conclude the release of the submitted information 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 present in pending case). 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). Basic information refers to the information held to be public in *Houston Chronicle*, and includes a detailed description of the offense. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Therefore, the city may not withhold the basic information based on section 552.108.

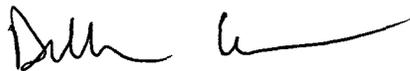
In summary, if the requestor is a parent, managing conservator, or legal representative of the child victim, with the exception of the basic information, the department may withhold the

submitted information based on section 552.108. In releasing basic information, the department must withhold the identity of the party who made the report based on section 261.201(1)(3).¹ If the requestor is not a parent, managing conservator, or legal representative of the child victim, the city must withhold the submitted information under section 552.101 in conjunction with section 261.201(a) of the Family 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,



Debbie K. Lee
Assistant Attorney General
Open Records Division

DKL/KH/sdk

Ref: ID# 434645

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note the submitted information contains confidential information regarding the alleged child victim to which the requestor has a right of access if the requestor is the child's parent, managing conservator, or other legal representative. *See* Fam. Code § 261.201(k). If the department receives another request for this particular information from a different requestor, the department should again seek a decision from this office. *See* Gov't Code §§ 552.301(a), .302.