



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 8, 2011

Ms. Cheryl Byles  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, Third Floor  
Fort Worth, Texas 76102

OR2011-18075

Dear Ms. Byles:

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# 438958 (Ft. Worth Request Nos. W011951 and W012278).

The City of Fort Worth (the "city") received two requests for police report number 11-90634. You claim that the submitted information is excepted from disclosure under sections 552.101, 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." Gov't Code § 552.101. Section 552.101 encompasses information made confidential by other statutes, including section 261.201 of the Family Code. Section 261.201 provides in relevant part:

(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, 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:

(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). Upon review, we agree the submitted information was used or developed in an investigation of alleged or suspected child abuse. *See id.* § 261.001(1)(C) (defining “abuse,” for the purposes of chapter 261 of the Family Code as including physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child). Accordingly, we determine the submitted information is within the scope of section 261.201 of the Family Code. You have not indicated that the city has adopted a rule that governs the release of this type of information. Therefore, we assume that no such regulation exists. Given that assumption, the requested documents are confidential pursuant to section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). Accordingly, the city must withhold the submitted information from the second requestor under section 552.101 of the Government Code as information made confidential by law.

However, it appears the first requestor may be the parent of the child victims listed in the report and the first requestor is not alleged to have committed the alleged or suspected abuse. If the first requestor is not the victims' parent, the submitted report must be withheld from the first requestor in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. If the first requestor is the victims' parent, the submitted report may not be withheld from the first requestor on the basis of section 261.201(a). *See* Fam. Code § 261.201(k). However, we note section 261.201(l) provides that before a parent can copy and inspect a record of her child under section 261.201(k), the identity of the party who made the report must be redacted. *Id.* § 261.201(l)(3). Further, section 261.201(l)(2) states that any information excepted from required disclosure under the Act or other law must be withheld from disclosure. *Id.* § 261.201(l)(2).

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 must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us, and provide two affidavits stating, that the submitted report relates to an ongoing criminal investigation and prosecution. Based on these representations and our review, we conclude release of the submitted information would interfere with the detection, investigation, or prosecution of a 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 per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, section 552.108(a)(1) of the Government Code is applicable to the submitted report.

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*, and includes the identity of the complainant and a detailed description of the offense. *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*). Accordingly, with the exception of basic information, the city may withhold the submitted report from the first requestor under section 552.108(a)(1) of the Government Code.<sup>1</sup> As noted above, section 261.201(l)(3) of the Family Code requires that the identity of the reporting party be redacted from any information being released to the parent of a child victim. In this instance, the reporting party is the complainant. Accordingly, when releasing basic information under section 552.108(c) of the Government Code, the city must withhold the identity of the complainant under section 261.201(l)(3) of the Family Code.

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument under section 552.130 of the Government Code.

In summary, the submitted information must be withheld in its entirety from the second requestor under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. If the first requestor is not the parent of the victims, the city must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. If the first requestor is the parent of the victims, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code but must release basic information under section 552.108(c) of the Government Code. In releasing basic information, the city must withhold the identity of the complainant pursuant to section 552.101 of the Government Code in conjunction with section 261.201(1)(3) 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](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,



Jessica Marsh  
Assistant Attorney General  
Open Records Division

JM/em

Ref: ID# 438958

Enc. Submitted documents

c: Requestors  
(w/o enclosures)