



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 14, 2011

Mr. Charles H. Weir
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2011-18395

Dear Mr. Weir:

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# 439882 (COSA File No. W003611).

The City of San Antonio (the "city") received a request for a specified report pertaining to the requestor's son. You claim 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 information you have submitted.

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, which 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:

...

(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 consists of a report used or developed in the city's police department's investigation of alleged or suspected child abuse. *See id.* § 261.001(1) (defining "abuse" for purposes of chapter 261 of the Family Code); *see also* Penal Code § 22.04(c) (defining "child" for purposes of injury to a child as a person 14 years of age or younger). Accordingly, we determine the submitted report is within the scope of section 261.201 of the Family Code. However, the requestor is a parent of one of the child victims listed in the report and is not alleged to have committed the alleged or suspected abuse. Therefore, the submitted report may not be withheld from this requestor on the basis of section 261.201(a). *See* Fam. Code § 261.201(k). However, we note section 261.201(l)(3) provides that before a parent can copy and 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). 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). You assert the submitted report is excepted

from public disclosure under section 552.108 of the Government Code. Accordingly, we address this argument for the report.

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 state the submitted report relates to an ongoing investigation. Based on your representation and our review, we conclude release of the submitted report 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 generally applicable to the submitted report.

We note 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*). As noted above, the identity of the party who made the report must be redacted. *See* Fam. Code § 261.201(1)(3). Accordingly, with the exception of basic information, the city may withhold the submitted report under section 552.108(a)(1) of the Government Code. However, in releasing basic information, the city must withhold the reporting party’s identity, which we have marked, under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code.¹

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,

¹We note the requestor has a special right of access to the information being released in this instance. *See* Fam. Code § 261.201(k). Because such information is confidential with respect to the general public, if the city receives another request for this information from a different requestor, the city must again seek a ruling from this office.

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,



Melanie J. Villars
Assistant Attorney General
Open Records Division

MJV/dls

Ref: ID# 439882

Enc. Submitted documents

c: Requestor
(w/o enclosures)