



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 17, 2012

Mr. Robert R. Ray
Assistant City Attorney
City of Longview
P.O. Box 1952
Longview, Texas 75606

OR2012-05487

Dear Mr. Ray:

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# 450932.

The Longview Police Department (the "department") received a request for police report #12-1716. You claim that the requested information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 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 section 261.201 of the Family Code, which states:

(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 Chapter 552, Government Code, or other law; and

(3) the identity of the person who made the report.

Fam. Code § 261.201(a), (k)–(l). You state the submitted information was used or developed in an investigation of alleged child abuse. *See id.* § 261.001(1) (defining “abuse” for purposes of Fam. Code ch. 261). Therefore, this information is subject to section 261.201 of the Family Code. However, the requestor is the parent of one of the alleged child victims in the report and is not alleged to have committed the suspected abuse. Accordingly, the department may not withhold the responsive information from this requestor on the basis of section 261.201(a). *See id.* 261.201(k). Nonetheless, before the department provides information concerning this report, it must redact any personally identifying information about the other child victim and the name of the person making the report. *See id.*

§ 261.201(1)(1), (3). In addition, the department must redact any information that is otherwise excepted from required disclosure under the Act. *See id.* § 261.201(1)(2). As you raise sections 552.108 and 552.130, we will consider their applicability to this information.

Section 552.108 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 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 relates to a pending criminal prosecution and release of the information would interfere with the prosecution of a crime. Based on your representations and our review, we find that release of the information you have marked 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). Accordingly, you may withhold the information you have marked in the submitted information under section 552.108(a)(1). In releasing the remaining information, however, the department must withhold the personally identifying information about a child victim who is not the requestor’s child, which we have marked, under section 552.101 of the Government Code in conjunction with section 261.201(1)(1) of the Family Code. The department also must withhold the identity of the person who made the report, which we have marked, under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code.

Finally, we note you have marked a driver’s license number in the submitted information and raise section 552.130 of the Government Code to withhold this information. Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator’s or driver’s license or permit or a motor vehicle title or registration issued by an agency of this state or another state or country. *See Gov’t Code* § 552.130(a)(1)-(2). The department must withhold the information you have marked under section 552.130 of the Government Code.

To summarize, the department must withhold the information we have marked under subsections 261.201(1)(1) and 261.201(1)(3) of the Family Code in conjunction with section 552.101 of the Government Code. The department may withhold the information you have marked under section 552.108(a)(1) of the Government Code.¹ The department must

¹As we are able to make this determination, we need not address your argument under section 552.147 of the Government Code, except to note that section 552.147(b) authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act.

withhold the information you have marked under section 552.130 of the Government Code. The remaining submitted information must be released to the requestor.²

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,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/eb

Ref: ID #450932

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note the requestor in this case has a right of access to information that would otherwise be confidential with respect to the general public. *See* Fam. Code § 261.201(k). Thus, if the department receives another request for this same information from a different requestor, the department must again seek a ruling from this office.