



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 15, 2012

Mr. Tyler F. Wallach
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, TX 76102

OR2012-07242

Dear Mr. Wallach:

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# 454514 (CFW PIR Nos. W015250, W015256, W015258, W015259, & W015261).

The City of Fort Worth (the "city") received five requests from four different requestors for certain information pertaining to a specified accident.¹ You claim that the requested 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. This section encompasses information protected by other statutes, such as section 261.201 of the Family Code, which provides as follows:

¹We note all five requests were received on March 5, 2012. For purposes of this ruling, the requestor whose request was received at 5:54 a.m. will be referred to as the "first requestor;" the requestor whose request was received at 9:41 a.m. will be referred to as the "second requestor;" the requestor whose requests were received at 10:09 a.m. and 10:10 a.m. will be referred to as the "third requestor;" and the requestor whose request was received at 10:20 a.m. will be referred to as the "fourth requestor."

(a) Except as provided by Section 261.203, the following information is confidential, is not subject to public release under chapter 552, Government Code, 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.

(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.

Fam. Code § 261.201(a). Although you claim the submitted information is confidential under section 261.201 of the Family Code, the information at issue pertains to the city's police department's investigation of an individual for failure to stop and render aid after an accident. Although the victims of this accident were children, you do not explain how this report was used or developed in an investigation under chapter 261. *See id.* § 261.001(1), (4) (defining "abuse" and "neglect" for purposes of chapter 261 of the Family Code). Therefore, we find you have failed to establish the applicability of section 261.201 to the submitted information. Accordingly, the city may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

Next, we note the submitted information contains a CR-3 accident report form. Section 550.065(b) of the Transportation Code states that except as provided by subsection (c) or (e), accident reports are privileged and for the confidential use of certain specified entities. Transp. Code § 550.065(b). The submitted CR-3 crash report was completed pursuant to chapter 550 of the Transportation Code. *See id.* § 550.064 (officer's accident report). Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) the date of the accident; (2) the name of any person involved in the accident; and (3) the specific location of the accident. *Id.* § 550.065(c)(4). Under this provision, a governmental entity is required to release a copy of an accident report to a person who provides two or more pieces of information specified by the statute. *Id.* In this instance, the fourth requestor is the only requestor to request the CR-3 accident report form. We note the fourth requestor has provided the city with the requisite information for the CR-3 crash report. Although you seek to withhold this information under section 552.108 of the Government Code, statutes governing the release of specific information prevail over the general exceptions to disclosure found in the Act. *See Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific*

statutory right of access provisions overcome general exceptions to disclosure under the Act). Accordingly, the city must release this report in its entirety to the fourth requestor.

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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception 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 remaining information at issue relates to a pending criminal investigation by the city’s police department and possible prosecution by the Tarrant County District Attorney’s Office. Based on this representation and our review, we conclude the city may withhold the remaining information at issue under section 552.108(a)(1) of the Government Code. *See Houston Chronicle Publ’g Co. v. Department 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).

In summary, the city must release the submitted CR-3 accident report to the fourth requestor under section 550.065(c) of the Transportation Code. The city may withhold the remaining information at issue under section 552.108(a)(1) 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.

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,



Sean Opperman
Assistant Attorney General
Open Records Division

SO/bhf

Ref: ID# 454514

Enc. Submitted documents

c: 4 Requestors
(w/o enclosures)