



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 25, 2012

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

OR2012-08058

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# 454760.

The Longview Police Department (the "department") received a request for information pertaining to a specified incident. You claim some of the requested information is excepted from disclosure under sections 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."¹ Gov't Code § 552.101. This section encompasses information protected by section 261.201 of the Family Code, which provides in relevant part:

[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:

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

(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). Upon review, we find the submitted information was used or developed by the department in an investigation of alleged or suspected child abuse. *See id.* § 261.001(1)(E) (defining “abuse” for purposes of chapter 261 of the Family Code as including offense of aggravated sexual assault under section 22.021 of the Penal Code); *see also* Penal Code § 22.021 (defining “child” for purposes of Penal Code section 22.021 as a person under 17 years of age). Therefore, we find the submitted information is within the scope of section 261.201 of the Family Code. In this instance, however, the requestor is the attorney of the child victim named in the report. Accordingly, pursuant to section 261.201(k), the department may not withhold the submitted information from the requestor under section 261.201(a). Fam. Code § 261.201(k). However, section 261.201(l)(2) states that any information that is excepted from required disclosure under the Act or other law may still be withheld from disclosure. *Id.* § 261.201(l)(2). Thus,

we will consider your arguments under sections 552.108, 552.130, and 552.147 of the Government 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 must reasonably explain how release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information pertains to an ongoing criminal investigation. Based on your representation and our review of the information, we conclude release of the information at issue 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 describes law enforcement interests that are present in active cases), *writ ref’d per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code.²

We note section 261.201(l)(3) of the Family Code states when releasing a report under subsection (k), the identity of the reporting party must be withheld. Fam. Code § 261.201(l)(3). Thus, the department must withhold the identity of the person who made the report of alleged child abuse, which we have marked in the remaining submitted information, under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code.

Next, we address your argument under section 552.147 of the Government Code for the arrestee’s social security number in the remaining submitted information. Section 552.147 provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. Gov’t Code § 552.147(a). Therefore, the department may withhold the social security number you have marked under section 552.147(a) of the Government Code.³

In summary, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The department must withhold the identity of the person who made the report of alleged child abuse, which we have marked in the

²As our ruling for this information is dispositive, we need not address your arguments against release of portions of this information.

³We note section 552.147(b) of the Government Code 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. Gov’t Code § 552.147(b).

remaining information, under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code. The department may withhold the arrestee's social security number under section 552.147 of the Government Code. The remaining information must be released to this requestor.⁴

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,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/ag

Ref: ID# 454760

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁴We note this requestor has a special right of access to the information being released under section 261.201(k) of the Family Code. Accordingly, if the department receives another request for this same information from a different requestor, the department must again seek a ruling from this office.