



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 5, 2012

Mr. Mack Reinwand
Assistant City Attorney
Arlington Police Department
Mail Stop 04-0200
P.O. Box 1065
Arlington, Texas 76004-1065

OR2012-08614

Dear Mr. Reinwand:

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# 456088 (APD Ref. No. 7272-032712).

The Arlington Police Department (the "department") received a request for a specified police report and a copy of the related 9-1-1 audio recording. You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception 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. Section 552.101 encompasses section 261.201(a) of the Family Code, which provides:

(a) [T]he following information is confidential, is not subject to public release under [the Act], and may be disclosed only for purposes consistent

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).

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 was used or developed in an 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 id.* § 101.003(a) (defining “child” as a person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). In this instance, however, the requestor is the parent of the child victim named in the report and is not the individual alleged to have committed the abuse. *See id.* § 261.201(k). Accordingly, the department may not withhold the submitted information from the requestor

under section 261.201(a). *Id.* However, section 261.201(1)(3) states the identity of the reporting party shall be withheld from disclosure. *Id.* § 261.201(1)(3). Additionally, section 261.201(1)(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(1)(2). Thus, we will consider your argument under section 552.108 of the Government Code.

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). Generally, 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 and open criminal investigation. Based upon this representation, we find the release of the submitted information 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, section 552.108(a)(1) is generally applicable in this instance.

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*, 531 S.W.2d 177. *See also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be “basic information.”). We note basic information included the identity of the complainant. *See* ORD 127 at 3-4. Therefore, with the exception of basic information, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code. We note the complainant in this case is also the reporting party. Section 261.201(1)(3) of the Family Code requires that the identity of the reporting party be withheld. Fam. Code § 261.201(1)(3). Thus, in releasing basic information, the department must redact the identity of the reporting party, which we have marked, under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code.

In summary, with the exception of the basic information, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code. In releasing the basic information, the department 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.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,



Sean Opperman
Assistant Attorney General
Open Records Division

SO/eb

Ref: ID# 456088

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note the requestor has a special right of access to the information being released under section 261.201(k) of the Family Code. If the department receives another request for this same information from a different requestor, the department must again seek a ruling from this office.