



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 25, 2012

Mr. Marc J. Schnall
For City of Selma
Langley & Banack Incorporated
745 East Mulberry Street, Suite 900
San Antonio, Texas 78212

OR2012-09725

Dear Mr. Schnall:

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# 457359.

The City of Selma (the "city"), which you represent, received a request for a copy of a specified incident report. You claim portions of the submitted information are 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 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 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 or neglect. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” 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 city 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). Accordingly, we find the city must withhold the identifying information 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. We note the remaining information you have marked does not identify the reporting party for purposes of section 261.201(1)(3). Thus,

none of the remaining information may be withheld under section 261.201(1)(3) of the Family Code. 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 remaining arguments under sections 552.108, 552.130, and 552.147 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 criminal case. Based upon this representation, we conclude section 552.108(a)(1) is applicable to the information you have marked and the release of the information at issue 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, the city may withhold the information you have marked under section 552.108(a)(1) of the Government Code.

You state the city “recognizes that driver’s license numbers, vehicle identification numbers, and license plate numbers may be redacted without necessity of a ruling” from this office. We note section 552.130(c) authorizes a governmental body to redact, without the necessity of requesting a decision from this office, the types of information described in subsections 552.130(a)(1) and (a)(3). *See* Gov’t Code § 552.130(c); *see also id.* § 552.130(d)-(e) (requestor may appeal governmental body’s decision to withhold information under section 552.130(c) to attorney general, and governmental body withholding information pursuant to section 552.130(c) must provide prescribed notice to requestor). Additionally, Open Records Decision No. 684 (2009) authorizes a governmental body to redact a Texas license plate number, which is protected by section 552.130(a)(2), without requesting an attorney general decision. Open Records Decision No. 684 at 7-8. However, neither section 552.130(c) nor Open Records Decision No. 684 authorize the city to redact the vehicle identification number you have marked under section 552.130 without requesting a ruling from this office. Nevertheless, section 552.130 excepts from disclosure information related to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or another state or country; a motor vehicle title or registration issued by an agency of this state or another state or country; or a personal identification document issued by an agency of this state or another state or country or a local agency authorized to issue an identification document. Gov’t Code § 552.130(a). Accordingly, the city must withhold the information you have marked under section 552.130 of the Government Code.

Section 552.147 of the Government Code provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. *Id.* § 552.147(a). Therefore, the city may withhold the social security numbers you have marked under section 552.147(a).¹

In summary, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code. The city may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The city must withhold the information you have marked under section 552.130 of the Government Code. The city may withhold the social security numbers you have marked under section 552.147 of the Government Code. The remaining 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,



Benjamin A. Bellomy
Assistant Attorney General
Open Records Division

BAB/dls

¹As you acknowledge, 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. *Id.* § 552.147(b).

²Because this requestor has a special right of access to the information being released, if the city receives another request for this same information from a different requestor, the department must again seek a ruling from this office. *See* Family Code § 261.201(k); Gov’t Code § 552.023.

Ref: ID# 457359

Enc. Submitted documents

c: Requestor
(w/o enclosures)