



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 10, 2012

Ms. Samantha Dyal
Counsel for the City of Schertz
Fulbright & Jaworski
300 Convent Street, Suite 2100
San Antonio, Texas 78205-3792

OR2012-12624

Dear Ms. Dyal:

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# 461866.

The City of Schertz (the "city"), which you represent, received a request for all information regarding a specified case number. You claim the submitted 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. 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:

- (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.

Fam. Code § 261.201(a). You claim the submitted information pertains to an investigation of alleged neglect of a child. *See id.* § 261.001(4) (defining “neglect” for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining “child” for purposes of chapter 261). We note, however, the submitted information pertains to an investigation of an assault in which the alleged victim was an adult. Consequently, you have failed to demonstrate the requested report was used or developed in an investigation by the city of child abuse or neglect under chapter 261 of the Family Code. Therefore, the requested report is not confidential under section 261.201 of the Family Code and may not be withheld under section 552.101 on that basis.

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 prosecution. Based upon this representation, we conclude section 552.108(a)(1) is applicable and 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).

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). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88. We note basic information includes a detailed description of the offense, but does not include driver’s license information encompassed by section 552.130 of the Government Code or social security numbers of individuals other than the arrestee. *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public *Houston Chronicle*). Thus, with the exception of the basic front page offense and arrest information, you may withhold the submitted information from disclosure based on section 552.108(a)(1) of the Government Code.¹

Basic information, in this instance, contains the arrestee’s social security number, which you seek to withhold from disclosure under section 552.147 of the Government Code. This section 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). However, section 552.147 protects personal privacy, and as the authorized representative of the individual whose privacy is at issue, the requestor has a right of access to her client’s social

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

security number. *See generally id.* § 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests.). Therefore, the city may not withhold the arrestee's social security number from this requestor under section 552.147 of the Government Code.

In summary, with the exception of the basic information, which must be released, the city may withhold the submitted information from disclosure 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,



Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/bhf

Ref: ID# 461488

Enc. Submitted documents

c: Requestor
(w/o enclosures)