



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 20, 2012

Ms. Michelle L. Villarreal
Assistant City Attorney
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

OR2012-13130

Dear Ms. Villarreal:

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# 462766 (Waco Reference No. LGL-12-832).

The City of Waco (the "city") received a request for call sheets and related offense or incident reports for two specified addresses during a specified time period. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 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, in relevant part:

(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 [chapter 261 of the Family Code] 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 [chapter 261 of the Family Code] or in providing services as a result of an investigation.

Fam. Code § 261.201(a). Because report number 11-7779 and the related call sheet number 11-13941 pertain to an investigation of alleged or suspected child abuse, the information falls within the scope of section 261.201 of the Family Code. *See id.* §§ 101.003(a) (defining “child” for the purposes of this section 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), 261.001 (defining “abuse” for purposes of chapter 261 of the Family Code). As you do not indicate that the city has adopted a rule that governs the release of this type of information, we assume that no such regulation exists. Given that assumption, and based on our review, we determine that the information at issue is confidential pursuant to section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). Accordingly, the city must withhold report number 11-7779, the related call sheet number 11-13941, and the additional information we have marked from disclosure under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.¹

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 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 report numbers 10-6612 and 12-6371 relate to open and pending criminal investigations. However, we note report number 10-6612 involves alleged criminal mischief that occurred on March 29, 2010. The longest possible statute of limitations for the offense described in report number 10-6612 is two years. *See* Penal Code § 28.03(b)(2) (criminal mischief is a Class B misdemeanor if the pecuniary loss is \$50 or more, but less than \$500); Crim. Proc. Code art. 12.02 (indictment for misdemeanor may be presented within two years from the date of the commission of the offense, and not afterward). More than two years have elapsed since the events giving rise to the investigations in report number 10-6612, and you have not informed this office any criminal charges were filed within the limitations period. Furthermore, you have not otherwise explained how release of the report at issue would interfere with the detection, investigation, or prosecution of crime. Thus, report number 10-6612 may not be withheld under section 552.108(a)(1).

¹As our ruling is dispositive for this information, we need not address your remaining argument against its disclosure.

However, based upon your representations and our review, we conclude that the release of the portions of report number 12-6371 that you have marked 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 186-87; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note some of the information you have marked under section 552.108(a)(1), including the charge, the arrestee's identifying information, and the details of the arrest, constitutes basic information for the purposes of *Houston Chronicle*. Therefore, with the exception of the charge, the arrestee's identifying information, and the details of the arrest, the city may withhold the information you have marked in report number 12-6371 under section 552.108(a)(1).

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle title, or registration issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(2). Therefore, the city must withhold the information you have marked, and the additional information we have marked, under section 552.130.²

In summary, the city must withhold report number 11-7779 and related call sheet number 11-13941 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. With the exception of the charge, the arrestee's identifying information, and the details of the arrest, the city may withhold the information you have marked in report number 12-6371. The city must withhold the information you have marked, and the additional information we have marked, under section 552.130 of the Government Code. The remaining information must be released.³

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.

²We note this office issued Open Records Decision No. 684, a previous determination to all governmental bodies, which authorizes the withholding of ten categories of information, including Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

³We note the information being released contains a social security number. 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).

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,



Kristi L. Wilkins
Assistant Attorney General
Open Records Division

KLW/ag

Ref: ID# 462766

Enc. Submitted documents

c: Requestor
(w/o enclosures)