



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 21, 2012

Ms. Michelle M. Kretz
Assistant City Attorney
Office of the City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2012-13160

Dear Ms. Kretz:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Public Information Act (the "Act"). Your request was assigned ID# 462710 (PIR No. W017550).

The Fort Worth Police Department (the "department") received a request for incident report 12-52957 and the related 911 recordings. You claim the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered your claimed exceptions to disclosure and have 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" and encompasses information made confidential by statute. See Gov't Code § 552.101. Section 261.201(a) of the Family Code provides as follows:

(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.

Fam. Code § 261.201(a). You assert the requested records are confidential under section 261.201 because they contain witness statements alleging abuse of a child. However, none of the submitted records contain any allegations of this nature. Moreover, you have not submitted any additional arguments explaining the applicability of section 261.201. As the department has failed to establish the records were used or developed in an investigation of child abuse as defined by chapter 261, we conclude the records may not be withheld under section 552.101. *See id.* § 261.001(1) (defining “abuse” for purposes of Fam. Code ch. 261).

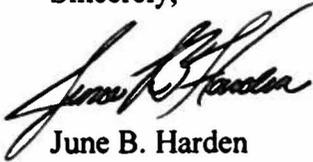
You also claim the records are excepted from disclosure under section 552.108(a)(1) of the Government Code. Section 552.108(a) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime.” *See* Gov’t Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). The department states the recording and incident report pertain to an active criminal investigation by the department. The department also represents that release of the requested information at this time will interfere with this investigation. Based upon these representations and our review, we find the department has demonstrated the applicability of section 552.108(a)(1). *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

Section 552.108, however, is inapplicable to 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 also* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information which must be released, the department may withhold the requested information under section 552.108(a)(1) of the Government Code. We note that the department has the discretion to release all or part of the requested information that is not otherwise confidential by law. Gov’t Code § 552.007.

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,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/bs

Ref: ID# 462710

Enc: Submitted documents

c: Requestor
(w/o enclosure)