



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 9, 2012

Mr. Steven Meyer
Assistant City Attorney
City of Arlington
P.O. Box 1065
Arlington, Texas 76004-1065

OR2012-16050

Dear Mr. Meyer:

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# 469750 (Arlington Police Department Reference No. 8699-081312).

The Arlington Police Department (the "department") received a request for information pertaining to three named individuals. You claim the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the department did not submit responsive information pertaining to two of the named individuals. We assume, to the extent any additional responsive information existed when the department received the request for information, the department has released it to the requestor. If not, then the department must do so immediately. *See Gov't Code §§ 552.006, 552.301, 552.302; Open Records Decision No. 664 (2000).*

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 made confidential by other statutes, including section 261.201 of the Family Code, which provides in relevant part 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.

...

(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.

Fam. Code § 261.201(a), (k). You assert incident report number 10-24346 was used or developed in an investigation under chapter 261. *See id.* §§ 101.003(a) (defining “child” for purposes of section 261.201), 261.001(1) (defining “abuse” for purposes of section 261.201). Upon review, we find incident report number 10-24346 is within the scope of section 261.201 of the Family Code. We note the requestor is a representative of the Family Court Services division of the Tarrant County Domestic Relations office (the “domestic relations office”), and she indicates the parent of the child victim at issue in this report has provided an authorized release to her. However, the parent at issue was suspected of committing the alleged or suspected abuse in this report. Therefore, we determine the requestor does not have a right of access to this report under section 261.201(k). *See id.* § 261.201(k). Nevertheless, section 261.201 of the Family Code also provides information encompassed by subsection (a) may be disclosed “for purposes consistent with [the Family Code] and applicable federal or state law.” *Id.* § 261.201(a). Chapter 411 of the Government Code constitutes “applicable state law” in this regard.

Section 411.1285(a) of the Government Code provides in part, “[a] domestic relations office created under Chapter 203, Family Code, is entitled to obtain from the [Texas Department of Public Safety] criminal history record information that relates to a person who is a party to a proceeding in which the domestic relations office is providing services permitted under Chapter 203, Family Code.”¹ *See Gov’t Code* § 411.1285(a); *see also* Fam. Code ch. 203 (governing administration of domestic relations offices). In addition, section 411.087(a) of the Government Code provides in pertinent part the following:

¹A “domestic relations office” is defined as “a county office that serves families, county departments, and courts to ensure effective implementation of this title.” Fam. Code § 203.001(2).

(a) [a] person, agency, department, political subdivision, or other entity that is authorized by this subchapter to obtain from the [Texas Department of Public Safety] criminal history record information maintained by the [Texas Department of Public Safety] that relates to another person is authorized to:

...

(2) obtain from any other criminal justice agency in this state criminal history record information maintained by that criminal justice agency that relates to that person.

Gov't Code § 411.087(a)(2). "Criminal history record information" is defined as "information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions." *See id.* § 411.082(2). Thus, the information at issue contains "criminal history record information." However, a domestic relations office may only receive criminal history record information if the information relates to a person who is a party to a proceeding in which the domestic relations office is providing services permitted under chapter 203 of the Family Code. *See id.* § 411.1285(c); *see also* Open Records Decision No. 655 (1997) (discussing limitations on release of criminal history record information).

In her request for information, the requestor states she is completing social studies for the court regarding the individuals named in the request for information. *See* Fam. Code § 107.051(b) (domestic relations office may perform court-ordered social study). Therefore, if the department determines incident report number 10-24346 relates to a person who is a party to a proceeding in which the requestor is providing services permitted under chapter 203 of the Family Code and release of the information is consistent with chapter 261 of the Family Code, then the department must (1) make available to the requestor information from this report that shows identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions but (2) withhold the remaining information in incident report number 10-24346 under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. However, the department must withhold incident report number 10-24346 in its entirety under section 552.101 in conjunction with section 261.201(a) if it determines either the information is not related to a person who is a party to a proceeding in which the domestic relations office is providing services permitted under chapter 203 of the Family Code or disclosure of the information is not consistent with chapter 261 of the Family Code. *See id.* § 261.201(b)-(g) (listing entities authorized to receive section 261.201 information); *see also* ORD 440 at 2; Attorney General Opinions DM-353 at 4 n.6 (interagency transfer of information prohibited where confidentiality statute enumerates specific entities to which release of information is authorized and where potential receiving governmental body is not among statute's enumerated entities), JM-590 at 4-5 (1986).

Section 552.101 of the Government Code also encompasses section 58.007 of the Family Code, which provides in relevant part as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

...

(e) Law enforcement records and files concerning a child may be inspected or copied by a juvenile justice agency as that term is defined by Section 58.101, a criminal justice agency as that term is defined by Section 411.082, Government Code, the child, and the child's parent or guardian.

...

(j) Before a child or a child's parent or guardian may inspect or copy a record or file concerning the child under Subsection (e), the custodian of the record or file shall redact:

(1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child; and

(2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law.

Fam. Code § 58.007(c), (e), (j). Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. However, section 58.007 allows the review or copy of juvenile law enforcement records by a child's parent or guardian. *Id.* § 58.007(e). Nevertheless, section 58.007(j)(2) provides information subject to any other exception to disclosure under the Act or other law must also be redacted. *See id.* § 58.007(j)(2).

Incident report number 12-37523 involves juvenile conduct occurring after September 1, 1997. Therefore, this information is subject to section 58.007. However, the requestor indicates the parent of the juvenile offender at issue in this report has provided an authorized release to her. Thus, the department may not withhold the information pertaining to this juvenile under section 552.101 of the Government Code in conjunction with section 58.007(c). *See id.* § 58.007(e). Nevertheless, pursuant to section 58.007(j)(2), we must address your arguments under section 552.108 of the Government Code to withhold this report. *See id.* § 58.007(j)(2).

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[.]” 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 Gov’t Code* §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state incident report number 12-37523 relates to a pending criminal investigation. Based on this representation, we conclude the release of this 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*. Thus, with the exception of the basic front-page offense and arrest information, the department may withhold incident report number 12-37523 under section 552.108(a)(1).

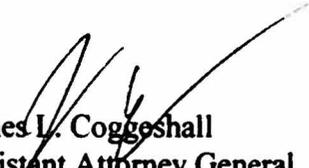
Nevertheless, as discussed above, the requestor states she is completing social studies for the court regarding the individuals named in the request for information. *See Fam. Code* § 107.051(b) (domestic relations office may perform court-ordered social study). Therefore, if the department determines incident report number 12-37523 relates to a person who is a party to a proceeding in which the requestor is providing services permitted under chapter 203 of the Family Code, then the department must make available to the requestor information from this report that shows identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions, but may withhold the remaining information from this report under section 552.108(a)(1) of the Government Code, with the exception of basic information. However, the department is not required to release such information from this report if it determines the information is not related to a person who is a party to a proceeding in which the domestic relations office is providing services permitted under chapter 203 of the Family Code. *See ORD 440 at 2; Attorney General Opinions DM-353 at 4 n.6, JM-590 at 4-5.*

To conclude, the department must withhold incident report number 10-24346 under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code; however, the department must release from this report information that shows identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions if it determines this information is related to a person who is a party to a proceeding in which the requestor is providing services permitted under chapter 203 of the Family Code and release of the information is consistent with chapter 261 of the Family Code. With the exception of basic information, the department may withhold incident report number 12-37523 under section 552.108(a)(1) of the Government Code; however, the department must release from this report information that shows identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions if it determines this information is related to a person who is a party to a proceeding in which the requestor is providing services permitted under chapter 203 of the Family 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

Ref: ID# 469750

Enc. Submitted documents

c: Requestor
(w/o enclosures)