



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 30, 2012

Mr. Mike Steinhauser
For City of La Grange
P.O. Drawer D
Flatonia, Texas 78941

OR2012-19306

Dear Mr. Steinhauser:

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# 472373.

The City of La Grange (the "city"), which you represent, received a request for information pertaining to a specific case. You claim the submitted 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.

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 states:

(a) Except as provided by Section 261.203, the 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). You state the submitted information was used or developed in an investigation of alleged child neglect. *See id.* § 261.001 (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 requestor in this case is identified as a parent of the child victim named in the report, and the requestor is not accused of having committed the neglect. Therefore, the city may not withhold from this requestor information concerning the alleged neglect that would otherwise be confidential under section 261.201(a). *See id.* § 261.201(k). Nonetheless, before the city provides information concerning this report, it must redact the identity of the person who made the report, which we have marked. *See id.* § 261.201(l)(3). The city also must redact any information that is otherwise excepted from required disclosure under the Act. *See id.* § 261.201(l)(2). As you raise sections 552.101 and 552.108, we will consider their applicability to this information.

Section 552.101 of the Government Code also encompasses laws that make criminal history record information (“CHRI”) confidential. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal government or other states. Open Records Decision No. 565 at 7 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* at 10–12. Section 411.083 of the Government Code deems confidential CHRI the Department of Public Safety (“DPS”) maintains, except DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov’t Code § 411.083. Sections 411.083(b)(1) and 411.089(a) of the Government Code authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for criminal justice purposes. *See id.* § 411.089(b)(1). Upon review, we agree the information submitted as Exhibit F consists of confidential CHRI. Accordingly, the city must withhold this information under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code.

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 the information submitted as Exhibits D and E relates to an ongoing criminal case, and release of the information would interfere with the investigation and prosecution. *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, we agree section 552.108(a)(1) of the Government Code is applicable to this information.

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*. 531 S.W.2d at 186–87. This information includes, but is not limited to, a sufficient portion of the narrative to encompass a detailed description of the offense. Basic information does not include information pertaining to witnesses or motor vehicle record information. *See* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). However, we note the identity of the reporting party is part of basic information in this instance. The city must withhold this information, which we have marked, under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code. With the exception of the remaining basic information, the city may withhold

the information submitted as Exhibits D and E under section 552.108(a)(1) of the Government Code.

In summary, the city must withhold Exhibit F under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. 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. With the exception of the remaining basic information, the city may withhold Exhibits D and E 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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/ag

Ref: ID# 472373

Enc. Submitted documents

c: Requestor
(w/o enclosures)