



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 13, 2012

Mr. David V. Overcash  
Assistant City Attorney for the City of Anna  
Wolfe, Tidwell & McCoy, L.L.P.  
2591 Dallas Parkway, Suite 205  
Frisco, Texas 75034

OR2012-20080

Dear Mr. Overcash:

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# 475324 (City's file no. C03029PIR20121010-01).

The Anna Police Department (the "department"), which you represent, received a request for a specified arrest report involving a named individual and all other reports involving the named individual from a specified time period. You claim some of 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. Section 261.201(a) 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). Upon review, we find some of the submitted information relates to investigations of alleged or suspected child abuse conducted by the department. *See id.* §§ 261.001 (defining “abuse” for purposes of chapter 261 of the Family Code to include sexual assault under Penal Code section 22.011), 101.003(a) (defining “child” for purposes of this section as 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); *see also* Penal Code § 22.011 (defining “child” for purposes of Penal Code section 22.011 as person under 17 years of age). Therefore, we find this information, which we have marked, is subject to chapter 261 of the Family Code. You do not indicate the department has adopted a rule that governs the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption, we conclude the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.<sup>1</sup>

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 must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information you have marked in report number 12-000244 pertains to a pending criminal investigation by the department. Based on your representation and our review, we conclude release of the information at issue 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). Thus, section 552.108(a)(1) is generally applicable to the information you have marked in report number 12-000244.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. *See* Gov’t Code § 552.108(a)(2). A governmental body claiming

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<sup>1</sup>As our ruling is dispositive, we do not address your remaining arguments against disclosure of this information.

section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). You state the information you have marked in report number 08-000489 pertains to a concluded criminal investigation that did not result in a conviction or deferred adjudication. Based on your representations and our review, we conclude that section 552.108(a)(2) is generally applicable to the information you have marked in report number 08-000489.

We note, however, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *Id.* § 552.108(c). Section 552.108(c) refers to the basic “front page” information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88. Basic information includes, among other things, a detailed description of the offense. *See id.* at 179-80, 185-87; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note you wish to withhold the entire narrative portions of report numbers 12-000244 and 08-000489 under section 552.108. However, the remaining information in these reports does not contain information sufficient to satisfy the requirement that a “detailed description of the offense” be released as basic information. *See* ORD 127. Therefore, with the exception of detailed descriptions of the offenses, the department may withhold the information you have marked in report number 12-000244 under section 552.108(a)(1) of the Government Code and the information you have marked in report number 08-000489 under section 552.108(a)(2) of the Government Code.

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator’s license, driver’s license, title, or registration issued by an agency of this state or another state or country is excepted from public release. Gov’t Code § 552.130(a)(1)-(2). Upon review, we find the department must withhold the information you have marked, as well as the additional information we have marked, under section 552.130 of the Government Code.

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction section 261.201 of the Family Code. With the exception of detailed descriptions of the offenses, the department may withhold the information you have marked in report number 12-000244 under section 552.108(a)(1) of the Government Code and the information you have marked in report number 08-000489 under section 552.108(a)(2) of the Government Code. The department must withhold the information you have marked, as well as the additional information we have marked, under section 552.130 of the Government Code. The department must release the remaining information.

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](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,



Sean Nottingham  
Assistant Attorney General  
Open Records Division

SN/bhf

Ref: ID# 475324

Enc. Submitted documents

c: Requestor  
(w/o enclosures)