



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 22, 2013

Mr. Charles H. Weir
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

OR2013-18344

Dear Mr. Weir:

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# 503452 (COSA File No. W017457).

The City of San Antonio (the "city") received two requests for information relating to two specified offense reports, SAPD13151569 and SAPD13151286. 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 information protected by other statutes, such as section 261.201 of the Family Code, which provides, in 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.

Fam. Code § 261.201(a). Upon review, we find report number SAPD13151286 consists of information used or developed in an investigation of alleged or suspected child abuse. *See id.* § 261.001(1) (defining “abuse” for purposes of chapter 261 of the Family Code); *see also* Penal Code § 21.011(c)(1) (defining “child” for purposes of section 22.021 as person younger than seventeen years of age). Further, we find a portion of report number SAPD13151569 consists of a report of child abuse under section 261.201(a)(1). You do not indicate the city has adopted a rule governing the release of this type of information; therefore, we assume no such regulation exists. Given that assumption, we conclude report number SAPD13151286 and the information we have marked in report number SAPD13151569 are confidential pursuant to section 261.201(a) of the Family Code and must be withheld under section 552.101 of the Government Code.¹ *See* Open Records Decision No. 440 at 2 (1986) (addressing predecessor statute).

However, you have not demonstrated how the remaining information in SAPD13151569 consists of files, reports, records, communications, audio tapes, video tapes, or working papers used or developed in investigations of alleged or suspected child abuse or neglect under chapter 261 of the Family Code. Additionally, you have not demonstrated the remaining information at issue consists of a report of child abuse or neglect nor does the information reveal the identity of an individual who made a report of suspected child abuse or neglect for purposes of section 261.201(a)(1). Therefore, the remaining information may not be withheld under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. Accordingly, we will address your argument under section 552.108 for the remaining information.

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(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(c)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the remaining information pertains to a case that is still open and that release of this information at this time would jeopardize the investigation and prosecution. Based on this representation and our review, we conclude release of the remaining 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

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

S.W.2d 559 (Tex. 1976). Therefore, we agree section 552.108(a)(1) of the Government Code is applicable to the remaining information.

We note, 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 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of the basic information, the city may withhold the remaining information under section 552.108(a)(1).

In summary, the city must withhold report number SAPD13151286 in its entirety and the information we have marked in report number SAPD13151569 under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. With the exception of basic information, the city may withhold the remaining information 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Alia K. Plasencia-Bishop
Assistant Attorney General
Open Records Division

AKPB/eb

Ref: ID# 503452

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)