



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 14, 2014

Ms. Teresa L. Presley
Records Manager
City of Frisco Police Department
7200 Stonebrook Parkway
Frisco, Texas 75034

OR2014-06170

Dear Ms. Presley:

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# 524036.

The Frisco Police Department (the "department") received a request for a specified police report. 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 made confidential by other statutes, including section 261.201 of the Family Code, which provides in relevant part the following:

(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.

(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[.]

Fam. Code § 261.201(a), (k), (l)(2). Upon review, we agree the submitted information was used or developed in an investigation under chapter 261. *See id.* § 261.001 (defining “abuse” for purposes of chapter 261 of the Family Code). Therefore, this information is within the scope of section 261.201. However, we note the requestor may be a parent, managing conservator, or other legal representative of the victim listed in the report, and the requestor is not accused of committing the alleged abuse. As we are unable to determine if the requestor is the child victim’s parent, managing conservator, or other legal representative, we must rule conditionally. If the requestor is not a parent, managing conservator, or other legal representative of the child victim, the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. If the requestor is a parent, managing conservator, or other legal representative of the child victim, the department may not withhold the submitted information from the requestor on the basis of section 261.201(a) of the Family Code. *See* Fam. Code § 261.201(k). In that instance, we note section 261.201(l)(2) states any information that is excepted from required disclosure under the Act or other law must be withheld from disclosure. *Id.* § 261.201(l)(2). Accordingly, we will address your remaining argument under section 552.108 for the submitted 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(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information pertains to an ongoing criminal investigation. Based on your representation, we conclude the 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 applicable to the submitted information.

However, we note 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 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic information, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.

In summary, if the requestor is not a parent, managing conservator, or other legal representative of the child victim, the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. If the requestor is a parent, managing conservator, or other legal representative of the child victim, then, with the exception of the basic information, which must be released, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.¹

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

¹We note the requestor has a special right of access to the information the department is releasing. *See* Fam. Code § 261.201(k). Because such information is confidential with respect to the general public, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristi L. Wilkins". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

Kristi L. Wilkins
Assistant Attorney General
Open Records Division

KLW/tch

Ref: ID# 524036

Enc. Submitted documents

c: Requestor
(w/o enclosures)