



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 17, 2009

Ms. Cheryl K. Byles  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street  
Fort Worth, Texas 76102

OR2009-05112

Dear Ms. Byles:

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# 340156 (Fort Worth # 1737-09).

The Fort Worth Police Department (the "department") received a request for all records involving three named individuals. You state that you have redacted Texas motor vehicle record information under section 552.130 of the Government Code pursuant to the previous determinations issued in Open Records Letter Nos. 2007-00198 (2007) and 2006-14726 (2006). *See Gov't Code* § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). You also state that you are withholding social security numbers pursuant to section 552.147 of the Government Code.<sup>1</sup> You claim that 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. We have also considered comments submitted by the requestor. *Gov't Code* § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note that the requestor, in comments submitted to this office, has excluded police reports listing two of the named individuals as victims without involvement of the third individual; therefore, this information is not responsive to the request. The department

---

<sup>1</sup>Section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

need not release non-responsive information in response to this request, and this ruling will not address that information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. Section 261.201(a) provides as follows:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with [the Family 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 [chapter 261 of the Family Code] and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under [chapter 261 of the Family Code] or in providing services as a result of an investigation.

Fam. Code § 261.201(a). Report 08-53658 was used or developed in an investigation of alleged or suspected child abuse or neglect. *See id.* §§ 101.003(a) (defining "child" for purposes of section 261.201 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"), 261.001 (defining "abuse" and "neglect" for the purposes of chapter 261 of the Family Code). Thus, we find that report 08-53658 is within the scope of section 261.201 of the Family Code. You do not indicate that the department has adopted a rule pertaining to disclosure of this type of information. Therefore, we assume that no such rule exists. Given this assumption, we conclude report 08-53658 is confidential and the department must withhold this report in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. *See* Open Records Decision Nos. 440 at 2 (1986) (predecessor statute).<sup>2</sup>

---

<sup>2</sup>We note that a parent of a child who is the subject of reported abuse or neglect may have a right of access to certain abuse and neglect records maintained by the Texas Department of Family and Protective Services ("DFPS"). Section 261.201(g) of the Family Code provides that DFPS, upon request and subject to its own rules, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect information concerning the reported abuse or neglect that would otherwise be confidential under this section if DFPS has edited the information to protect the confidentiality of the identity of the person who made the report and any other person whose life or safety may be endangered by the disclosure. Fam. Code § 261.201(g).

We now address your argument under section 552.108 of the Government Code for the remaining responsive submitted information. Section 552.108(a) 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.” Gov’t Code § 552.108(a)(1). 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 id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us, and provide documentation showing, that reports 08-46538 and 08-49215 pertain to pending criminal prosecutions. You state, and provide an affidavit reflecting, that the Tarrant County District Attorney objects to release of this information, as such a release would interfere with the ongoing criminal prosecutions. Based on these representations and our review of the submitted information, we conclude that section 552.108(a)(1) is applicable to these reports. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

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 Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, with the exception of the basic front page offense and arrest information, the department may withhold reports 08-46538 and 08-49215 from disclosure based on section 552.108(a)(1). We note that the department has the discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov’t Code § 552.007.

In summary, the department must withhold report 08-53658 under section 552.101 in conjunction with section 261.201 of the Family Code. With the exception of basic information, the department may withhold reports 08-46538 and 08-49215 under section 552.108(a)(1) of the Government Code.<sup>3</sup>

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,

---

<sup>3</sup>As are ruling is dispositive, we need not address your remaining argument against disclosure.

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 at (512) 475-2497.

Sincerely,



Tamara Wilcox  
Assistant Attorney General  
Open Records Division

TW/eeg

Ref: ID# 340156

Enc. Submitted documents

c: Requestor  
(w/o enclosures)