



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 8, 2009

Mr. J. David Dodd, III
Nichols, Jackson, Dillard, Hager & Smith, LLP
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

OR2009-09420

Dear Mr. Dodd:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 348401 (City of DeSoto ID# 36661).

The DeSoto Police Department (the "department"), which you represent, received a request for information pertaining to an April 10, 2009 incident that occurred at the MCM Grande Fun Dome Hotel. The department asserts the information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the department's claims and have 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 confidentiality statutes. Section 261.201 of the Family Code reads in part 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 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. After review of the information, we conclude the requested information does not consist of reports, records, and working papers used or developed in an investigation made under chapter 261 of the Family Code. Thus, the department may not withhold the information under section 261.201.

Next, we consider the department's section 552.108 assertion. 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." 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 Gov't Code §§ 552.108(a)(1), .301(e)(1)(a); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). The department states the information relates to a pending criminal case. Based upon this representation, we conclude release of the 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), *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.* Thus, with the exception of the basic front page offense and arrest information, the department may withhold the requested information from disclosure based on section 552.108(a)(1).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.

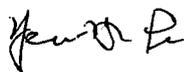
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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,

¹Because section 552.108 is dispositive, we do not address the department's section 552.103 assertion except to note, generally, basic information may not be withheld from public disclosure under section 552.103. Open Records Decision No. 597 (1991).

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 at (512) 475-2497.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 348401

Enc: Submitted documents

c: Requestor
(w/o enclosures)