



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 10, 2009

Ms. P. Armstrong
Assistant City Attorney
Criminal Law and Police Section
City of Dallas
1400 S. Lamar
Dallas, Texas 75215

OR2009-11092

Dear Ms. Armstrong:

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# 352620 (DPD PIR No. 2009-4384).

The Dallas Police Department (the "department") received a request for information pertaining to two specified incident reports. You claim portions of the submitted information are excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."² Gov't Code § 552.101. This section encompasses information protected by other statutes, including section 261.201 of the Family Code, which provides in part:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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). Because report number 0147694-W was used or developed in an investigation of alleged or suspected child abuse, this report is within the scope of section 261.201 of the Family Code. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261); *see also id.* § 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). You do not indicate the department has adopted a rule that governs the release of this type of information. Therefore, we assume that no such regulation exists. Given that assumption, report number 0147694-W is confidential pursuant to section 261.201 of the Family Code.³ *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). Accordingly, the department must withhold report number 0147694-W in its entirety under section 552.101 of the Government Code as information made confidential by law.⁴

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: (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, .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state report number 0147716-W relates to an ongoing criminal investigation. Based on your representation and our review, we conclude release of the information you have marked in

³As our ruling is dispositive, we need not address your argument against the disclosure of this report.

⁴We note the requestor, as the 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).

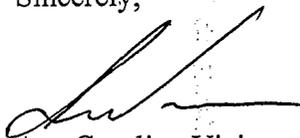
report number 0147716-W would interfere with the detection, investigation, or prosecution of crime. See *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Accordingly, the department may withhold the marked information in report number 0147716-W under section 552.108(a)(1) of the Government Code.

In summary, the department must withhold report number 0147694-W under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The department may withhold the marked information in report number 0147716-W under section 552.108(a)(1) of the Government Code. The remaining information must be released.

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, 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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

Ref: ID# 352620

Enc. Submitted documents

c: Requestor
(w/o enclosures)