



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 27, 2009

Mr. Darrell G-M Noga  
Fee, Smith, Sharp & Vitullo, L.L.P.  
Three Galleria Tower  
13155 Noel Road, Suite 1000  
Dallas, Texas 75240

OR2009-15227

Dear Mr. Noga:

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# 359746 (City of Coppel ORR No. 9783).

The City of Coppel (the "city"), which you represent, received a request for a specified police report. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note report number P9024354 concerns a police investigation of conduct that fits the definition of child abuse for purposes of chapter 261 of the Family Code. *See* Fam. Code § 261.001(1)(C) (defining "abuse" in part as physical injury that results in substantial harm to child, or genuine threat of substantial harm from physical injury to child). Thus, section 261.201 of the Family Code is applicable to report number P9024354. Accordingly, the report is generally confidential under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.<sup>1</sup> *See id.* § 261.201(a). In this

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<sup>1</sup>The 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). Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision[.]" and encompasses information protected by other statutes. Gov't Code § 552.101.

instance, however, the requestor is the parent of the child victim listed in the report, and the requestor is not alleged to have committed the suspected abuse. As such, report number P9024354 may not be withheld from this requestor under section 261.201(a). *Id.* § 261.201(k) (providing child's parent can obtain information that is subject to section 261.201(a) concerning reported abuse or neglect of child as long as parent is not alleged to have committed the abuse or neglect). We also note section 261.201(l) provides that, notwithstanding section 261.201(k), any information that is excepted from required disclosure under the Act or other law may still be withheld from disclosure. *Id.* § 261.201(l)(2). We will, therefore, consider your arguments against disclosure under sections 552.108 and 552.130 of the Government Code.

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 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). Your state report number P9024354 pertains to an ongoing criminal investigation and that release of this report would interfere with “the continuing investigation and/or potential prosecution of this case.” Based upon your representations and our review, we conclude the release of report number P9024354 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). Therefore, we conclude section 552.108(a)(1) is applicable to report number P9024354.

As you acknowledge, 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). Such basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, which you state you will release, the city may withhold report number P9024354 under section 552.108(a)(1) of the Government Code.<sup>2</sup> As our ruling is dispositive, we need not address your remaining arguments against disclosure.

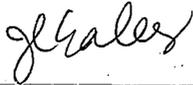
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<sup>2</sup>In this instance, the requestor has a special right of access pursuant to section 261.201(k) of the Family Code to the information being released. If the city receives another request for this same information from an individual who does not have a right of access to the information, the city should resubmit the information to us and request another ruling. *See* Gov’t Code §§ 552.301, .302; Open Records Decision No. 673 (2001).

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, 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, toll free, at (888) 672-6787.

Sincerely,



Jessica Eales  
Assistant Attorney General  
Open Records Division

JCE/eeg

Ref: ID# 359746

Enc. Submitted documents

c: Requestor  
(w/o enclosures)