



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 24, 2014

Mr. David H. Guerra
King, Guerra, Davis & Garcia, P.C.
P.O. Box 1025
Mission, Texas 78573

OR2014-03361

Dear Mr. Guerra:

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# 516338.

The City of Mission (the "city"), which you represent, received a request for information pertaining to four specified cases. You claim 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.

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. This section encompasses information made confidential by other statutes, such as section 261.201(a) of the Family Code, which provides, in relevant part:

(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.

Fam. Code § 261.201(a). You state incident report number 2013-00035663 was used or developed in an investigation of alleged child abuse. *See id.* § 261.001(1)(defining “abuse” for purposes of Fam. Code ch. 261). Upon review, we find this information falls within the scope of section 261.201 of the Family Code. You have not indicated the city’s police department has adopted a rule that governs the release of this type of information; therefore, we assume no such regulation exists. Given that assumption, we conclude the city must withhold incident report number 2013-00035663 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.¹ *See* Open Records Decision No. 440 at 2 (1986) (addressing predecessor statute).

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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state incident report numbers 2013-0003079, 2013-00033207, and 2013-00024619 relate to pending criminal investigations. Based upon your representation and our review, we find section 552.108(a)(1) generally is applicable to the information you have marked in these incident reports. *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).

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). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. We note basic information includes a detailed description of the offense and the identity of the complainant. *See* ORD 127 at 3-4. In this instance, you have marked the identities of the complainants and the entire narrative portions of incident report numbers 2013-0003079, 2013-00033207, and 2013-00024619 as information you seek to withhold under section 552.108. Accordingly, we determine the city must release the identities of the complainants and a sufficient portion of each narrative to encompass a detailed description of the offense. Thus, with the exception of the basic information, which must be released, the city may withhold

¹As our ruling is dispositive, we need not address your remaining argument for this information.

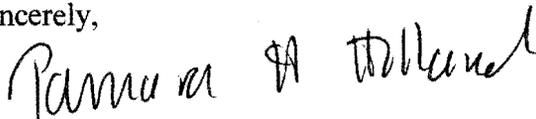
the information you have marked in incident report numbers 2013-0003079, 2013-00033207, and 2013-00024619 under section 552.108(a)(1) of the Government Code.

In summary, the city must withhold incident report number 2013-00035663 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. With the exception of the basic information, which must be released, the city may withhold the information you have marked in incident report numbers 2013-0003079, 2013-00033207, and 2013-00024619 under section 552.108(a)(1) of the Government Code. The city must release the remaining information in incident report numbers 2013-0003079, 2013-00033207, and 2013-00024619.

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

Sincerely,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/tch

Ref: ID# 516338

Enc. Submitted documents

c: Requestor
(w/o enclosures)