



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 7, 2014

Mr. Peter G. Smith
City Attorney
Richardson Police Department
P.O. Box 831078
Richardson, Texas 75083-1078

OR2014-03972

Dear Mr. Smith:

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# 515978 (Reference No. 13-934).

The Richardson Police Department (the "department") received a request for three specified incident reports. You state the department released some of the requested information. 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.

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 information protected by other statutes, such as section 261.201 of the Family Code, which provides in relevant part:

(a) [T]he 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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Department of Family and Protective Services] or the Texas Youth Commission, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

...

(2) any information that is excepted from required disclosure under [the Act], or other law; and

(3) the identity of the person who made the report.

Fam. Code § 261.201(a), (k), (l)(2)-(3). Upon review, we find the submitted information was used or developed in investigations of alleged or suspected child abuse. *See id.* §§ 261.001(1) (defining “abuse” for purposes of chapter 261 of the Family Code), 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). Thus, the submitted information is subject to section 261.201 of the Family Code. In this case, although the requestor is the parent of the child victims named in the reports at issue, the requestor is alleged to have committed the suspected abuse or neglect in report 201300145021. Thus, the requestor does not have a right of access to report 201300145021 under section 261.201(k). *See id.* § 261.201(k). Accordingly, the department must withhold report 201300145021 in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(k) of the Family Code. However, the requestor is not alleged to have committed the suspected abuse in report 201300149817 and report 201300149843. Therefore, pursuant to section 261.201(k) of the Family Code, report 201300149817 and report 201300149843 may not be withheld from this requestor

under section 552.101 of the Government Code on the basis of section 261.201(a). *See id.* Section 261.201(1)(2) provides that any information excepted from disclosure under the Act or other law must be withheld. *See id.* § 261.201(1)(2). Thus, we will address the department's remaining arguments against disclosure of report 201300149817 and report 201300149843.

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). 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 state the information at issue relates to an ongoing criminal investigation. Based on this representation and our review, we find release of the information at issue 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) (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). Thus, we find section 552.108(a)(1) is applicable to report 201300149817 and report 201300149843.

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*. *See* 531 S.W.2d at 186-187; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of the basic information, which you indicate you have released, the department may withhold report 201300149817 and report 201300149843 under section 552.108(a)(1).¹

In summary, the department must withhold report 201300145021 in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(k) of the Family Code. With the exception of the basic information, the department may withhold report 201300149817 and report 201300149843 under section 552.108(a)(1) of the Government Code.²

¹As our ruling is dispositive, we need not address your remaining argument against disclosure, except to note that basic information does not include information subject to section 552.130 of the Government Code. *See* ORD 127 at 3-4.

²We note the requestor has a special right of access to the information being released. *See* Fam. Code § 261.201(k). Accordingly, if the department receives another request for this information from a different requestor, then the department should again seek a ruling from this office. *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.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,

A handwritten signature in black ink that reads "Megan G. Holloway". The signature is written in a cursive, flowing style.

Megan G. Holloway
Assistant Attorney General
Open Records Division

MGH/akg

Ref: ID# 515978

Enc. Submitted documents

c: Requestor
(w/o enclosures)