



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 16, 2014

Ms. Linda Pemberton
Paralegal
City of Killeen
P.O. Box 1329
Killeen, Texas 76540

OR2014-16381

Dear Ms. Pemberton:

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# 536186 (Killeen ID# W013775).

The City of Killeen (the "city") received a request for every call for service and all police reports related to a specified individual from January 1, 2013 to the date of the request. You state you have released some of the information. You claim the submitted 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. Section 552.101 encompasses information made confidential 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 [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.

...

(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.

Fam. Code § 261.201(a), (k). You state call for service numbers 1619972, 1623188, 1627978, and 1704860 and police report numbers 14-004604 and 14-005533 were used or developed by the city's police department in investigations under chapter 261. *See id.* § 261.001(1), (4) (defining "abuse" and "neglect" for purposes of chapter 261 of the Family Code); *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). Although the requestor is a parent of the child victim listed in the reports, the requestor is alleged to have committed the alleged abuse and neglect. Thus, the requestor does not have a right of access to the submitted information under section 261.201(k). *See id.* § 261.201(k). Accordingly, the city must withhold call for service numbers 1619972, 1623188, 1627978, and 1704860 and police report numbers 14-004604 and 14-005533 from the requestor under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.¹

Section 552.101 of the Government Code also encompasses juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are confidential under section 58.007. For purposes of section 58.007(c), "child" means a person who is ten years of age or older and under seventeen years of age when the conduct occurred. *See id.* § 51.02(2). Section 58.007 of the Family Code provides in part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise,

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure of police report numbers 14-004604 and 14-00533.

concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

...

(e) Law enforcement records and files concerning a child may be inspected or copied by a juvenile justice agency as that term is defined by Section 58.101, a criminal justice agency as that term is defined by Section 411.082, Government Code, the child, and the child's parent or guardian.

...

(j) Before a child or a child's parent or guardian may inspect or copy a record or file concerning the child under Subsection (e), the custodian of the record or file shall redact:

- (1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child[.]
- (2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law.

Id. § 58.007(c), (e), (j). Police report numbers 14-003551, 14-005680, and 14-005804 involve allegations of juvenile delinquent conduct that occurred after September 1, 1997. Thus, this information is generally confidential under section 58.007(c). We note that the requestor is a parent of the juvenile offender listed in these reports. Therefore, the requestor has a right to inspect juvenile law enforcement records concerning her juvenile child pursuant to section 58.007(e) of the Family Code. *See id.* § 58.007(e). However, any personally identifiable information concerning another juvenile suspect, offender, victim, or witness must be redacted. *Id.* § 58.007(j)(1). Section 58.007(j)(2) also provides, however, that information subject to any other exception to disclosure under the Act or other law must

be redacted. *See id.* § 58.007(j)(2). Accordingly, we will address your claim under section 552.108(a)(1) 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 must reasonably explain how and why section 552.108(a)(1) is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information at issue pertains to ongoing investigations. Based on your representations, we conclude section 552.108(a)(1) is generally applicable to police report numbers 14-003551, 14-005680, and 14-005804. *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). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 (1976) (summarizing the types of information considered to be basic information). Thus, with the exception of the basic information, which you state you have released, the city may withhold police report numbers 14-003551, 14-005680, and 14-005804 under section 552.108(a)(1) of the Government Code.² However, the city may not release as basic information from report number 14-003551 any personally identifiable information concerning any juvenile suspect, offender, victim, or witness other than the juvenile offender to whom the requestor is a parent. *See* Fam. Code § 58.007(j)(1).

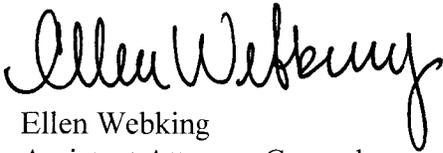
In summary, the city must withhold call for service numbers 1619972, 1623188, 1627978, and 1704860 and police report numbers 14-004604 and 14-005533 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. With the exception of basic information, the city may withhold police report numbers 14-003551, 14-005680, and 14-005804 under section 552.108(a)(1) of the Government Code. In releasing basic information, the city may not release any personally identifiable information concerning any juvenile suspect, offender, victim, or witness other than the juvenile offender to whom the requestor is a parent. *See* Fam. Code § 58.007(j)(1).

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.

²We note the requestor has a special right of access under section 58.007 of the Family Code to the information being released. *See* Fam. Code § 58.007(e). Because such information is confidential with respect to the general public, if the city receives another request for this information from a different requestor, the city must again seek a ruling from this office.

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,



Ellen Webking
Assistant Attorney General
Open Records Division

EW/ac

Ref: ID# 536186

Enc. Submitted documents

c: Requestor
(w/o enclosures)