



February 25, 2015

Mr. James McKechnie  
Assistant City Attorney II  
City of Wichita Falls  
Office of the City Attorney  
P.O. Box 1431  
Wichita Falls, Texas 76307

OR2015-03705

Dear Mr. McKechnie:

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# 557201 (City ID# 12).

The City of Wichita Falls (the "city") received a request for a specified police report. The city claims the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the claimed exceptions 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 section 261.201 of the Family Code, which provides, in relevant part, as follows:

(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.

(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). You assert the submitted information was used or developed by the city's police department in an investigation of alleged or suspected child abuse or neglect under chapter 261 of the Family Code. *See id.* §§ 101.003(a) (defining "child" for purposes of section 261.201), 261.001(1) (defining "abuse" for purposes of section 261.201). Upon review, we find the submitted information is within the scope of section 261.201(a). However, we note the requestor, who is not alleged to have committed the suspected abuse, may be a managing conservator or other legal representative of the child victim. Thus, we must rule conditionally. If the requestor is not a managing conservator or other legal representative of the child victim, then the city must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. If the requestor is a managing conservator or other legal representative of the child victim, then the city may not withhold the submitted information from this requestor on the basis of section 261.201(a). *See id.* § 261.201(k). Nevertheless, section 261.201(l)(3) provides the identity of the reporting party must be withheld. Accordingly, the city must withhold the identifying information of the reporting

party under section 552.101 in conjunction with section 261.201(1)(3). In addition, section 261.201(1)(2) states any information that is excepted from required disclosure under the Act or other law must be redacted. *Id.* § 261.201(1)(2). Therefore, in the event the requestor is a managing conservator or other legal representative of the child victim, we address your arguments to withhold the submitted information under section 552.108 of the Government Code.

Section 552.108(a) 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[.]” 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* Gov’t Code §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the requested information relates to a pending criminal investigation. Based on this representation, we conclude the release of the submitted information 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).

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* and includes the complainant’s identity. *See Houston Chronicle*, 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Accordingly, if the requestor is a managing conservator or other legal representative of the child victim, then the city must release the basic information, but may withhold the remaining information under section 552.108(a)(1) of the Government Code. However, in the releasing basic information, the city must withhold the reporting party’s identifying information under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code.

To conclude, if the requestor is not a managing conservator or other legal representative of the child victim at issue in the submitted information, then the city must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. If the requestor is a managing conservator or other legal representative of the child victim, then the city must release the basic information, but may withhold the remaining information under section 552.108(a)(1) of the Government Code; however, in releasing the basic information, the city must withhold the reporting party’s identifying information under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code.

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](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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/cbz

Ref: ID# 557201

Enc. Submitted documents

c: Requestor  
(w/o enclosures)