



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 6, 2015

Mr. Grant Jordan
Assistant City Attorney
Office of the City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2015-06446

Dear Mr. Jordan:

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# 558749 (City ID No. W039619).

The City of Fort Worth (the "city") received a request for a specified incident report. You state the city has released some information to the requestor. We understand the city will redact certain criminal history record information pursuant to the previous determination issued to the city in Open Records Letter No. 2013-22304 (2013).¹ Further, we understand the city will withhold motor vehicle record information pursuant to section 552.130(c) of the Government Code and social security numbers pursuant to section 552.147(b) of the Government Code.² You claim the submitted information is excepted from disclosure under

¹Open Records Letter No. 2013-22304 is a previous determination issued to the city authorizing it to withhold FBI numbers under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code without the necessity of requesting an attorney general decision.

²Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See id.* § 552.147(b).

section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, you state the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2015-04351 (2015). In that ruling, we determined the city must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. We note the current requestor is the mother of the child victims listed in the submitted information; accordingly, she may have a right of access to the submitted information. Therefore, we find the circumstances have changed and the city may not rely on Open Records Letter No. 2015-04351 as a previous determination for the submitted information. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, we will address your argument against disclosure of 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.”³ Gov’t Code § 552.101. This section encompasses information made confidential by other statutes, including 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

³The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision No. 481 (1987), 480 (1987), 470 (1987).

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.

(1) 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[.]

Fam. Code § 261.201(a), (k), (1)(2). Upon review, we find the submitted information was used or developed in an investigation of alleged or suspected child abuse 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). Accordingly, we find the submitted information is within the scope of section 261.201(a). As noted above, the requestor is the mother of the child victims listed in the submitted information. Further, the mother is not alleged to have committed the abuse. Thus, the city may not withhold the submitted information from this requestor on the basis of section 261.201(a). *See id.* § 261.201(k). However, section 261.201(1)(2) provides any information that is excepted from required disclosure under the Act or other law must still be withheld from disclosure. *Id.* § 261.201(1)(2). Therefore, we must address whether the submitted information is otherwise excepted from release under the Act.

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(a)(1) 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 submitted information relates to a pending criminal prosecution. Based on your representation and our review, 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 present in active cases), *writ ref’d n.r.e. per*

curiam, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the submitted information.

However, we note, and you acknowledge, 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 at 3-4 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, which must be released, the city may withhold the submitted information under section 552.108(a)(1) of the Government 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, 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,



Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/som

Ref: ID# 558749

Enc. Submitted documents

c: Requestor
(w/o enclosures)