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ATTORNEY GENERAL OF TEXAS

August 5, 2015

Ms. Andrea D. Russell
Counsel for the City of Crowley
Taylor, Olson, Adkins, Sralla & Elam, L.L.P.
6000 Western Place, Suite 200
Fort Worth, Texas 76107

OR2015-16089

Dear Ms. Russell:

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# 574323.

The City of Crowley (the "city"), which you represent, received a request for certain records regarding a named individual. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.1085, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information includes court-filed documents. Section 552.022(a)(17) of the Government Code provides for required public disclosure of "information that is also contained in a public court record[,]" unless the information is expressly made confidential under the Act or other law. Gov't Code § 552.022(a)(17). The city seeks to withhold the information at issue under section 552.108 of the Government Code. However, this section is a discretionary exception to disclosure that protects a governmental body's interests and does not make information confidential under the Act. *See id.* § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). As such, section 552.108 does not make information confidential for the purposes of

section 552.022. Accordingly, the city may not withhold the court-filed documents, which we have marked, under section 552.108. However, because sections 552.101 and 552.130 can make information confidential under the Act, we will address their applicability to the information subject to section 552.022(a)(17). Further, we will address your arguments against disclosure of the remaining 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 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 [chapter 261 of the Family Code] 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 [chapter 261 of the Family Code] 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:

(1) any personally identifiable information about a victim or witness under 18 years of age unless that victim or witness is:

(A) the child who is the subject of the report; or

(B) another child of the parent, managing conservator, or other legal representative requesting the information;

(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.

Id. § 261.201(a), (k)-(l). The submitted information consists of information used or developed in an investigation of alleged or suspected abuse or neglect under chapter 261 of the Family Code. Accordingly, the submitted information falls within the scope of section 261.201 of the Family Code. *See id.* §§ 101.003(a) (defining “child” for the purposes of this section as a 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), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). We note the requestor is the parent of one of the child victims. Further, the requestor is not alleged to have committed the suspected abuse or neglect. Therefore, the city may not use section 261.201(a) to withhold the submitted information from this requestor. *Id.* § 261.201(k). However, before the city provides any of this information to the requestor, the city must redact any personally identifying information of any other child victims or witnesses at issue and the identity of the person making the report. *See id.* § 261.201(l)(1), (3). In addition, the department must redact any information that is otherwise excepted from required disclosure under the Act. *See id.* § 261.201(l)(2). Therefore, we will consider your remaining arguments against disclosure of the submitted information.

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(a)(1) 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 the submitted information relates to a pending criminal investigation. Based upon your representation and our review, we find section 552.108(a)(1) is applicable to the submitted information not subject to section 552.022(a)(17) of the Government Code. *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, however, 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* and includes the identity of the complainant and a detailed description of the offense. 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 and the information subject to section 552.022(a)(17) of the Government Code, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code.¹ However, in releasing basic information, the city must withhold any personally identifying information of a child victim or witness who is not the requestor's child under section 552.101 of the Government Code in conjunction with section 261.201(l)(1) of the Family Code. The city also must withhold the identity of the person who made the report under section 552.101 in conjunction with section 261.201(l)(3).

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. See Gov't Code § 552.130. Accordingly, the city must withhold the motor vehicle record information we have marked in the court-filed documents under section 552.130 of the Government Code.

In summary, with the exception of the motor vehicle record information we have marked, which must be withheld under section 552.130 of the Government Code, the city must release the marked court-filed documents pursuant to section 552.022(a)(17) of the Government Code. With the exception of basic information, the city may withhold the submitted information pursuant to section 552.108(a)(1) of the Government Code. However, in releasing basic information, the city must withhold any personally identifying information of a child victim or witness who is not the requestor's child under section 552.101 of the Government Code in conjunction with section 261.201(l)(1) of the Family Code. The city also must withhold the identity of the person who made the report under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code.

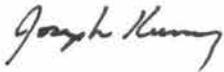
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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/>

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

[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,



Joseph Keeney
Assistant Attorney General
Open Records Division

JDK/eb

Ref: ID# 574323

Enc. Submitted documents

c: Requestor
(w/o enclosures)