



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 10, 2020

Mr. Eric C. Farrar  
Counsel for the City of Stafford  
Olson & Olson, L.L.P.  
2727 Allen Parkway, Suite 600  
Houston, Texas 77019-2133

OR2020-19945

Dear Mr. Farrar:

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# 838488 (ORR-141-2020).

The City of Stafford (the "city"), which you represent, received several requests from the same requestor for particular policies of the city's police department (the "department"), police reports involving the requestor or another named individual, as well as police reports containing particular terms or pertaining to particular establishments for specified time periods.<sup>1</sup> The city states it is withholding 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.<sup>2</sup> The city further states it is withholding certain information pursuant to Open Records Decision No. 684 (2009).<sup>3</sup> The city claims some of

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<sup>1</sup> You state the city sought and received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

<sup>2</sup> Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 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).

<sup>3</sup> Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain information without the necessity of requesting an attorney general decision.

the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions the city claims and reviewed the submitted information.

Initially, we note the city has not submitted information responsive to the portion of the request seeking department policies. To the extent any information responsive to this category of the request existed on the date the city received the request, we assume the city has released it. If the city has not released any such information, it must do so at this time. *See Gov't Code §§ 552.301(a), .302; see also Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).*

Section 552.101 of the Government Code excepts from public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov't Code § 552.101. This section encompasses information protected by section 261.201 of the Family Code, which provides, in part, as follows:

(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 Juvenile Justice Department, 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 report 14-2184 was used or developed in an investigation of alleged or suspected child abuse or neglect conducted by the department. *See 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), 261.001(1), (4) (defining “abuse” and “neglect” for

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purposes of chapter 261 of the Family Code). Accordingly, we agree this information is subject to chapter 261 of the Family Code. In this instance, the requestor is a parent of the child victim listed in the information at issue. However, we note the requestor is alleged to have committed the suspected abuse or neglect. Further, we note the child victim is now an adult. Thus, the requestor does not have a right of access to the information at issue under section 261.201(k). *See id.* § 261.201(k). The city does not indicate the department has adopted a rule that governs the release of this type of information and therefore we assume no such regulation exists. Given that assumption, we conclude the city must withhold report 14-2184 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.<sup>4</sup> *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

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). Generally, a governmental body claiming section 552.108(a)(1) must 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 reports 18-2334 and 19-3056 pertain to pending criminal investigations by the department. Based on your representations and our review, we conclude the 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, section 552.108(a)(1) is applicable to reports 18-2334 and 19-3056.

Section 552.108(a)(2) excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state reports 19-2623, 20-0751, 2015-00018061, 2015-00101185, 2016-00035089, 2018-00008872, 2019-00056777, 2019-00062534 and 2019-00079187 pertain to closed criminal investigations conducted by the department that did not result in convictions or deferred adjudications. Based on your representations and our review, we agree section 552.108(a)(2) is applicable to reports 19-2623, 20-0751, 2015-00018061, 2015-00101185, 2016-00035089, 2018-00008872, 2019-00056777, 2019-00062534 and 2019-00079187

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. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531

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<sup>4</sup> As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

S.W.2d 177 at 186-88; *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 state has been released, the city may withhold reports 18-2334 and 19-3056 under section 552.108(a)(1) of the Government Code and reports 19-2623, 20-0751, 2015-00018061, 2015-00101185, 2016-00035089, 2018-00008872, 2019-00056777, 2019-00062534 and 2019-00079187 under section 552.108(a)(2) of the Government Code.<sup>5</sup>

In summary, the city must withhold report 14-2184 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. With the exception of the basic information, which must be released, the city may withhold reports 18-2334 and 19-3056 under section 552.108(a)(1) of the Government Code and reports 19-2623, 20-0751, 2015-00018061, 2015-00101185, 2016-00035089, 2018-00008872, 2019-00056777, 2019-00062534 and 2019-00079187 under section 552.108(a)(2) of the Government Code. The city must release the remaining information.<sup>6</sup>

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Erin Groff  
Assistant Attorney General  
Open Records Division

EMG/mo

Ref: ID# 838488

c: Requestor

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<sup>5</sup> As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

<sup>6</sup> We note the requestor has a right of access to some of the information being released. *See* Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, the city must again seek a decision from this office if it receives another request for the same information from another requestor.