



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 1, 2022

Ms. Lisa Wilson
City Secretary
City of Copperas Cove
P.O. Drawer 1449
Copperas Cove, Texas 76522

OR2022-03006

Dear Ms. Wilson:

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# 928202 (W0007688).

The City of Copperas Cove (the "city") received a request for information pertaining to a specified incident. You claim some of the submitted information was not properly requested pursuant to Chapter 1701 of the Transportation Code. You also claim the submitted information is excepted from disclosure under sections 552.108 and 552.130 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."¹ Gov't Code § 552.101. Section 552.101 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 The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

(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 . . . 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). Upon review, find the submitted information was used or developed in an investigation of alleged or suspected child abuse or neglect under chapter 261 of the Family Code, so as to fall within the scope of section 261.201(a). *See id.* §§ 101.003(a) (defining “child” for purposes of section 261.201), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of section 261.201 of Family Code). Accordingly, we find the submitted information is subject to chapter 261 of the Family Code. However, the requestor may represent the alleged child victim at issue or a parent of the alleged child victim who is not accused of committing the alleged or suspected child abuse or neglect. As such, the requestor may have a right of access to the submitted information pursuant to section 261.201(k). As we are unable to determine whether the requestor is a legal representative of the child victim or represents a parent, guardian, or managing conservator of the child victim, we rule conditionally. If the requestor does not represent the alleged child victim or a parent, guardian, or managing conservator of the child victim listed in the information at issue, then the city must withhold the submitted information from the requestor in its entirety under section 552.101 of the Government

Code in conjunction with section 261.201(a) of the Family Code.² Conversely, if the requestor does represent the alleged child victim or a parent, guardian, or managing conservator of the child victim, then the city may not withhold the submitted information from the requestor under section 552.101 of the Government Code on the basis of section 261.201(a). *Id.* § 261.201(k). Further, section 261.201(l)(3) states the identity of the reporting party must be withheld. *Id.* § 261.201(l)(3). Additionally, section 261.201(l)(2) states any information that is excepted from required disclosure under the Act or other law may still be withheld from disclosure. *Id.* § 261.201(l)(2). Therefore, we will consider your arguments for 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: (1) 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 the information submitted information relates to a pending criminal investigation and possible prosecution, and release of the information at issue would interfere with the investigation and prosecution of the case. Based upon this representation, 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 the submitted information.

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 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note basic information includes, among other items, a sufficient portion of the narrative to include a detailed description of the incident and identities of complainants, but does not include the identities of victims, witnesses, or other involved parties. *See* ORD 127 at 3-4. 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.³ However, as previously noted, section 261.201(l)(3) of the Family Code states the identity of the reporting party must be withheld. *See* Fam. Code § 261.201(l)(3). Thus, in releasing basic information, the city must withhold the identity of the reporting party under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code.

² In this instance, as our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

³ As our ruling is dispositive, we need not address the remaining argument against disclosure of this information or the applicability of section 1701.661(a) of the Occupations Code to the submitted video recordings. *See* generally Occ. Code § 1701.661(a), (e).

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,

Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/be

Ref: ID# 928202

Enc. Submitted documents

c: Requestor
(w/o enclosures)