



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 15, 2022

Ms. Montana Anderson  
Litigation & PIA Paralegal  
City of Abilene  
P.O. Box 60  
Abilene, Texas 79604-0060

OR2022-20562

Dear Ms. Anderson:

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# 959321 (Ref. No. 22-918).

The City of Abilene (the "city") received a request for three specified case reports involving the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

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 information protected 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 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

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<sup>1</sup> We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(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.

(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.

(3) the identity of the person who made the report.

Fam. Code § 261.201(a), (k), (l)(2)-(3). Upon review, we find some of the information at issue was used or developed in an investigation of alleged or suspected child abuse or neglect. *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 purposes of chapter 261 of the Family Code). Accordingly, we find this information is subject to chapter 261 of the Family Code. We note, and the city acknowledges, the requestor is the parent of the child victim in the information at issue, and she is not accused of committing the alleged or suspected child abuse or neglect. Therefore, the city may not withhold the information at issue from the requestor on the basis of section 261.201(a) of the Family Code. *See id.* § 261.201(k). However, section 261.201(l)(3) states the identity of the reporting party shall be withheld from disclosure. *Id.* § 261.201(l)(3). Accordingly, the city must withhold the identity of the reporting party in report number 21-004370 under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code. Moreover, section 261.201(l)(2), however, states any information that is excepted from required disclosure under the Act or other law may still be withheld from

disclosure. *Id.* § 261.201(1)(2). Accordingly, we will consider your remaining argument for the information at issue.

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 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 report number 22-007255 pertains to an active criminal investigation. Based on 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, we note 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; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of the basic information, which must be released, the city may withhold report number 22-007255 under section 552.108(a)(1) of the Government Code.

Section 552.101 of the Government Code also encompasses chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communications districts. Section 772.318 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 20,000 and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a 9-1-1 service supplier. *See* Open Records Decision No. 649 (1996). You state the city is part of an emergency communication district that is subject to section 772.318 of the Health and Safety Code. Thus, to the extent the remaining information contains the originating telephone number of a 9-1-1 caller furnished by a 9-1-1 service supplier, the city must withhold such information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. To the extent the information does not contain the originating telephone number of a 9-1-1 caller provided by a 9-1-1 service supplier, the city may not withhold any of the remaining information on that ground.

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial*

*Foundation. Id.* at 683. We note the requestor has a right of access to information pertaining to herself and her minor child that would otherwise be confidential under common-law privacy. *See* Gov't Code § 552.023(a) (“a person or person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to a person and that is protected from public disclosure by laws intended to protect that person’s privacy interests”); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Additionally, we note the requestor has a right of access to her spouse’s information if she is acting as her spouse’s authorized representative pursuant to section 552.023 of the Government Code. *See* Gov't Code § 552.023(a); ORD 481 at 4. Accordingly, to the extent the requestor is not acting as her spouse’s authorized representative the city must withhold her spouse’s date of birth under section 552.101 of the Government Code in conjunction with common-law privacy. Conversely, to the extent the requestor is acting as her spouse’s authorized representative the city may not withhold the date of birth at issue under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from public disclosure 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. *See* Gov't Code § 552.130. We note section 552.130 protects personal privacy. Thus, the requestor may have a right of access to her spouse’s motor vehicle record information if she is acting as her spouse’s authorized representative under section 552.023 of the Government Code and it may not be withheld from her under section 552.130. *See id.* § 552.023(a); ORD 481 at 4. Accordingly, to the extent the requestor is not acting as her spouse’s authorized representative, the city must withhold her spouse’s drivers license number and issuing state under section 552.130 of the Government Code.

In summary, the city must withhold the identity of the reporting party in report number 21-004370 under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code. With the exception of the basic information, which must be released, the city may withhold report number 22-007255 under section 552.108(a)(1) of the Government Code. To the extent the remaining information contains the originating telephone number of a 9-1-1 caller furnished by a 9-1-1 service supplier, the city must withhold such information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. To the extent the requestor is not acting as her spouse’s authorized representative the city must withhold her spouse’s date of birth under section 552.101 of the Government Code in conjunction with common-law privacy. To the extent the requestor is not acting as her spouse’s authorized representative, the city must withhold her spouse’s drivers license number and issuing state under section 552.130 of the Government Code. The city must release the remaining information.<sup>2</sup>

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<sup>2</sup> We note the information being released contains information to which the requestor has a right of access under section 261.201(k) of the Family Code and section 552.023 of the Government Code. *See* Gov't Code § 552.023(a); ORD 481 at 4; *see also* Fam. Code § 261.201(k).

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,

Sarah E. Reese  
Attorney  
Open Records Division

SER/be

Ref: ID# 959321

Enc. Submitted documents

c: Requestor  
(w/o enclosures)