



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 24, 2009

Ms. Michelle T. Rangel
Assistant County Attorney
Fort Bend County
301 Jackson Street, Suite 728
Richmond, Texas 77469-3108

OR2009-02396

Dear Ms. Rangel:

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# 335586.

The Fort Bend County Sheriff's Office (the "sheriff") received a request for all reports pertaining to a specified address. You indicate some information will be provided to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

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 other statutes, such as section 261.201 of the Family Code, which provides as follows:

- (a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with [the Family Code] and applicable federal or state law or under rules adopted by an investigating agency:

¹We assume that 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.

(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.

Fam. Code § 261.201(a). You claim report number 06-17179 is confidential under section 261.201. Upon review, however, we find that you have not demonstrated report number 06-17179 consists of files, reports, records, communications, audiotapes, videotapes, or working papers used or developed in an investigation under chapter 261 of the Family Code. We therefore conclude that report number 06-17179 is not confidential under section 261.201 of the Family Code, and no part of it may be withheld on that basis.

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 must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication.

You state that submitted report number 06-23724 relates to a pending criminal investigation. However, we note that this report pertains to a misdemeanor theft investigation that originated on November 24, 2006. The longest possible statute of limitations for this type of offense is two years. *See* Penal Code § 31.03, Crim. Proc. Code art. 12.02 (misdemeanor subject to two year limitations period). Thus, the statute of limitations for report number 06-23724 has run. You have not informed this office that any criminal charges were filed within the limitations period in this case. Furthermore, you have not otherwise explained how release of this report would interfere with the detection, investigation, or prosecution of an offense for which the statute of limitations has not run. Thus, report number 06-23724 may not be withheld under section 552.108(a)(1). You also assert that report numbers 06-17179 and 06-16542 pertain to cases that have concluded in results other than conviction or deferred adjudication. Therefore, we agree that section 552.108(a)(2) is applicable to these reports.

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 Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). We note that basic information described in *Houston Chronicle* does not include information subject to section 552.130 of the Government Code. Thus, with the exception of basic front page offense and arrest information, you may withhold report numbers 06-17179 and 06-16542 from disclosure pursuant to section 552.108(a)(2).²

Section 552.130 excepts from disclosure “information [that] relates to ... a motor vehicle operator’s or driver’s license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state.” Gov’t Code § 552.130. Accordingly, the sheriff must withhold the Texas driver’s license information we have marked under section 552.130 of the Government Code.

In summary, with the exception of basic information, you may withhold report numbers 06-17179 and 06-16542 pursuant to section 552.108(a)(2) of the Government Code. You must withhold the Texas driver’s license information we have marked under section 552.130 of the Government Code. The remaining information must be released.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Matt Entsminger
Assistant Attorney General
Open Records Division

MRE/jb

²As our ruling for this information is dispositive, we need not address your remaining arguments against disclosure for this information.

Ref: ID# 335586

Enc. Submitted documents

cc: Requestor
(w/o enclosures)