



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

January 15, 2010

Ms. Katie Lentz
Open Records
Williamson County Sheriff's Office
508 South Rock Street
Georgetown, Texas 78626

OR2009-00793

Dear Ms. Lentz:

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# 367389.

The Williamson County Sheriff's Office (the "sheriff") received a request for all information pertaining to a specified case number.¹ You claim that the submitted information is excepted from disclosure under sections 552.101, 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." Gov't Code § 552.101. Section 552.101 encompasses section 261.201 of the Family Code, which provides 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

¹We note the requestor has agreed to the redaction of social security numbers, Texas driver's license numbers, Texas license plate numbers, and vehicle identification numbers. Accordingly, any of this information within the submitted documents is not responsive to the present request. The sheriff need not release nonresponsive information, and we do not address such information in this ruling.

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 department 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.

Fam. Code § 261.201(a), (k), (l). You state the submitted information was developed in an investigation of alleged child abuse. *See id.* § 261.001(1) (defining “abuse” for purposes of chapter 261 of the Family Code); *see also 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). Upon review, we find the submitted information is generally confidential under section 261.201 of the Family Code. However, the requestor is the parent of one of the children who is the subject of the information at issue and is not alleged to have committed the suspected abuse. In this instance, the sheriff may not use section 261.201(a) to withhold this information from this requestor. *Id.* § 261.201(k). Section 261.201(1)(2), however, states any information that is excepted from required disclosure under the Act or other law may be withheld from disclosure. *Id.* § 261.201(1)(2). Further, section 261.201(1)(3) states the identity of the reporting party must be withheld. *Id.* § 261.201(1)(3). You assert the submitted information is excepted from public disclosure under sections 552.108 and 552.130 of the Government Code. Accordingly, we will consider your remaining arguments against disclosure.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). 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. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state that the submitted information relates to a criminal investigation that concluded in a result other than conviction or deferred adjudication. Based on your representation and our review, we conclude that section 552.108(a)(2) is applicable to the submitted information.

However, section 552.108 of the Government Code 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 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), and includes the identity of the complainant. Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). As previously noted, section 261.201(1)(3) of the Family Code states the reporting party's identity must be redacted. *See Fam. Code* § 261.201(1)(3). Therefore, with the exception of basic information, the sheriff may withhold the submitted information under section 552.108(a)(2).² However, in releasing basic information, the sheriff must withhold the reporting party's identity under section 552.101 in conjunction with section 261.201(1)(3). We have marked the types of information that must be withheld on

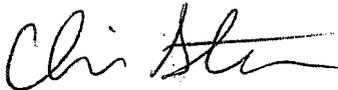
²As our ruling is dispositive, we need not address your remaining argument against disclosure.

the basis of section 261.201(1)(3). The remaining basic information must be released to the requestor.³

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, toll free, at (888) 672-6787.

Sincerely,



Christopher D. Sterner
Assistant Attorney General
Open Records Division

CDSA/eeg

Ref: ID# 367389

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We note the remaining information being released contains confidential information regarding the child victim to which the requestor has a right of access as the child's parent. *See* Fam. Code § 261.201(k). If the sheriff receives another request for this information from a different requestor, then the sheriff should again seek a decision from this office.