



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 14, 2010

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

OR2010-06941

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# 379478.

The Williamson County Sheriff's Office (the "sheriff") received a request for an incident report of family violence involving two individuals at a specified address on a specified date. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor agreed to the redaction of social security numbers, driver's license and license plate numbers, and vehicle identification numbers. Therefore, such information is not responsive to the request. This ruling will not address non-responsive information and the sheriff need not release such information in response to the instant request.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."<sup>1</sup> Gov't

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Code § 552.101. Section 552.101 encompasses section 261.201 of the Family Code, which provides as follows:

(a) Except as provided by Section 261.203, the 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) 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 of Family and Protective Services (“DFPS”)] 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.

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Fam. Code § 261.201(a), (k). We note the submitted DFPS intake and notification reports pertain to investigations of alleged child abuse or neglect. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Fam. Code ch. 261). Thus, we find the DFPS intake and notification reports, which we have marked, are confidential under section 261.201. *See id.* § 261.201(a). Although the requestor is a parent of the child victims listed in the reports, the requestor is alleged to have committed the suspected abuse or neglect. Therefore, the requestor does not have a right of access under section 261.201(k). Accordingly, the sheriff must withhold the information we have marked under section 552.101 in conjunction with section 261.201.<sup>2</sup>

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<sup>2</sup>As our ruling is dispositive for this information, we do not address your argument against its disclosure.

Section 552.108(a)(2) 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 . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(a)(2). Section 552.108(a)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in a conviction or a deferred adjudication. A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A). You state the submitted information pertains to a closed investigation that did not result in conviction or deferred adjudication. Based on your representation, we agree section 552.108(a)(2) is generally applicable to the remaining information.

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). *See* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Therefore, except for basic information, you may withhold the remaining information under section 552.108(a)(2).<sup>3</sup>

In summary, the sheriff must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. Except for basic information, the sheriff may withhold the remaining information under section 552.108(a)(2) of the Government Code.<sup>4</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 [http://www.oag.state.tx.us/open/index\\_orl.php](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

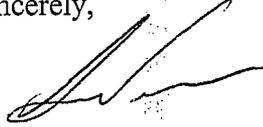
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<sup>3</sup>As our ruling is dispositive for this information, we do not address your remaining argument under section 552.108(b)(2) of the Government Code.

<sup>4</sup>Because the requestor has a right of access to portions of the basic information being released that would otherwise be excepted from release under the Act, the sheriff must again seek a decision from this office if it receives a request for this information from a different requestor.

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,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/eeg

Ref: ID# 379478

Enc. Submitted documents

c: Requestor  
(w/o enclosures)