



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 23, 2010

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

OR2010-11023

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# 388336.

The Fort Bend County Sheriff's Office (the "sheriff") received a request for information pertaining to two specified addresses during particular time periods. You indicate that the sheriff has no information related to one of the requested addresses.¹ You state that some of the requested information will be released, but 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, portions of which consist of representative samples.²

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App. – San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

²This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling neither reaches nor authorizes the sheriff to withhold any information that is substantially different from the submitted information. *See Gov't Code* §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

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 in 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) 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] 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.

Fam. Code § 261.201(a), (k). You assert that incident report 10-7871 and its related call slip are excepted from disclosure under section 261.201(a). Upon review, we find that incident report 10-7871 and its related call slip are within the scope of section 261.201(a). *See id.* § 261.001 (defining "abuse" and "neglect" for purposes of section 261.201); *id.* § 101.003(a) (defining "child" as a person under eighteen years of age who is not and has not been married and who has not had the disabilities of minority removed for general purposes). We note that information may not be withheld on the basis of section 261.201(a) from a parent of a child who was the victim of alleged or suspected abuse or neglect, unless the parent is alleged to have committed the abuse or neglect. *See id.* § 261.201(k). In this instance, although the requestor is the parent of the child victim who is the subject of incident report 10-7871, the requestor is alleged to have committed the alleged abuse or neglect. Accordingly, as you do not inform us that the sheriff has adopted a rule that governs the release of this type of

information, the sheriff must withhold incident report 10-7871 and its related call slip under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

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. *See* 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 concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.302(e)(1)(A). You state that incident reports 10-10050, 10-10013, and 08-28307, and their related call slips, pertain to closed investigations that did not result in conviction or deferred adjudication. Based on your representation and our review, we conclude that the sheriff has demonstrated that section 552.108(a)(2) is applicable to these reports. Therefore, we conclude the sheriff may generally withhold incident reports 10-10050, 10-10013, and 08-28307, and their related call slips, under section 552.108(a)(2) of the Government Code.

However, section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." *Id.* § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle Publ'g 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 also* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Therefore, with the exception of basic information, the sheriff may withhold incident reports 10-10050, 10-10013, and 08-28307, and their related call slips, under section 552.108(a)(2) of the Government Code.

In summary, the sheriff must withhold incident report 10-7871 and its related call slip under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. With the exception of basic information, which must be released, the sheriff may withhold incident reports 10-10050, 10-10013, and 08-28307, and their related call slips, under section 552.108(a)(2) of the Government Code.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,

³As our ruling is dispositive, we need not address your remaining claims.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 388336

Enc. Submitted documents

c: Requestor
(w/o enclosures)