



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 20, 2010

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

OR2010-12719

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# 391068.

The Fort Bend County Sheriff's Office (the "sheriff") received a request for information pertaining to a deputy's response to a certain location at specified times. You state some information will be released. You claim 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 representative sample of information.<sup>1</sup>

Section 552.108 of the Government Code provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

- (1) release of the information would interfere with the detection, investigation, or prosecution of crime;
- (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an

---

<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 those records contain substantially different types of information than that submitted to this office.

investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a)(1), (2). The protections offered by subsections 552.108(a)(1) and 552.108(a)(2) are, generally, mutually exclusive. Section 552.108(a)(1) generally applies to information that pertains to criminal investigations or prosecutions that are currently pending, while section 552.108(a)(2) protects law enforcement records that pertain to criminal investigations and prosecutions that have concluded in a final result other than a criminal conviction or deferred adjudication. A governmental body claiming section 552.108(a)(1) must reasonably 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). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See* Gov't Code §§ 552.108(a)(2), .301(e)(1)(A). You state the information at issue relates to three charges, and the charges of assault on a public servant and interference with public duties are currently pending criminal prosecution. We understand that although the charge of assault family violence has been dismissed, the submitted information is too intertwined with the pending prosecutions to separate the records. Based upon these representations, we conclude the release of the submitted information 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), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

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). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, the sheriff may withhold the submitted information under section 552.108(a)(1).<sup>2</sup>

Next, we address your claim under section 552.101 of the Government Code for the basic information. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. You raise section 552.101 in conjunction with section 261.201 of the Family Code, which provides in part:

---

<sup>2</sup>As our ruling is dispositive for this information, we need not address your remaining arguments against disclosure of portions of this information.

(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

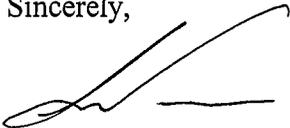
(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam Code. § 261.201(a). Upon review of the basic information, we find you have failed to demonstrate how any portion of this information constitutes a report of alleged or suspected abuse or neglect or was used or developed in an investigation of child abuse or neglect under chapter 261. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261). We therefore determine section 261.201 is not applicable to the basic information. Consequently, the sheriff may not withhold any of this information under section 552.101 in conjunction with section 261.201. Therefore, except for basic information which must be released, the sheriff may withhold the submitted information under section 552.108(a)(1) of the Government Code.

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 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# 391068

Enc. Submitted documents

c: Requestor  
(w/o enclosures)