



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 17, 2011

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

OR2011-08673

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# 421299.

The Williamson County Sheriff's Office (the "sheriff") received a request for all records in reference to a specified case, including the case file, autopsy records, photographs, and any related material. You claim that portions of the submitted information are 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 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 information protected by other statutes, including 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 [Texas 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). Upon review, we find that a portion of the submitted information was used or developed in an investigation of alleged or suspected child abuse under chapter 261 of the Family Code, so as to fall within the scope of section 261.201(a). *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). In this instance, the requestor is a parent of the child victim listed in the report, and is suspected to have committed the alleged abuse. As such, this portion of the submitted information, which we have marked, may not be provided to the requestor pursuant to section 261.201(k) of the Family Code. *Id.* § 261.201(k) (stating child’s parent may not obtain information subject to section 261.201(a) concerning reported abuse or neglect if parent is alleged to have committed abuse or neglect). Therefore, we conclude the sheriff must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.<sup>1</sup>

You assert a portion of the information in Exhibit B is excepted from disclosure under section 552.108 of the Government Code, which provides, in pertinent part, the following:

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

(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:

...

(2) it is information that the deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

...

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure] if:

...

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code §§ 552.108(a)(2), (b)(2). Subsections(a)(2) and 552.108(b)(2) protect information that relates to a concluded criminal investigation or prosecution that did not result in a conviction or deferred adjudication. *Id.* A governmental body claiming subsection 552.108(a)(2) or subsection 552.108(b)(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 id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the information you marked in Exhibit B relates to a concluded criminal investigation that did not result in conviction or deferred adjudication. Based on your representation and our review, we find section 552.108(a)(2) applies to the information at issue. Therefore, the sheriff may withhold the information you have marked in Exhibit B under section 552.108(a)(2).

You also state that a portion of the information in Exhibit B contains confidential criminal history record information ("CHRI"). Section 552.101 of the Government Code also encompasses laws that make CHRI confidential. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal government or other states. Open Records Decision No. 565 at 7 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* at 10-12. Section 411.083 of the Government Code

deems confidential CHRI the Department of Public Safety ("DPS") maintains, except DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov't Code § 411.083. Section 411.083(b)(1) and 411.089(a) of the Government Code authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for criminal justice purposes. *See id.* § 411.089(b)(1). We note section 411.083 does not apply to active warrant information or other information relating to an individual's current involvement with the criminal justice system. *See id.* § 411.081(b) (police department allowed to disclose information pertaining to person's current involvement in the criminal justice system). Upon review, we find the information we have marked constitutes CHRI for purposes of section 411.083. Accordingly, the sheriff must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. We find the remaining information you have marked relates to active warrant information. As section 411.083 does not apply to this information, the sheriff may not withhold it under section 552.101 of the Government Code on that basis.

You state further that the submitted information contains Texas driver's license numbers that are excepted from disclosure under section 552.130 of the Government Code. Section 552.130 excepts from disclosure information that relates to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency. Gov't Code § 552.130(a)(1), (2). We agree the remaining documents contain information subject to section 552.130. However, a portion of this information belongs to the requestor's spouse. In this instance, the requestor may be acting as the authorized representative of his spouse. Under section 552.023 of the Government Code, a person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests. *Id.* § 552.023. To the extent the requestor is acting as his wife's authorized representative, he has a right of access to her driver's license number, which we have marked, and it may not be withheld from him under section 552.130. However, the sheriff must withhold the remaining driver's license information, which we have marked, under section 552.130 of the Government Code.

Section 552.136(b) of the Government Code states "[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential."<sup>2</sup> *Id.* § 552.136(b). This office has determined an insurance policy number is an access device for purposes of

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<sup>2</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).

section 552.136. Accordingly, the sheriff must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code.<sup>3</sup>

Section 552.147 of the Government Code provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act.<sup>4</sup> *Id.* § 552.147(a). Section 552.147 is also based on privacy concerns. Accordingly, pursuant to section 552.023, if the requestor is acting as his wife’s authorized representative, then the sheriff may not withhold his wife’s social security number. *See generally id.* § 552.023(b). The sheriff may withhold the remaining social security numbers you have marked as well as those we have marked under section 552.147.

In summary: (1) the sheriff must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code; (2) the sheriff may withhold the information you have marked in Exhibit B under section 552.108; (3) the sheriff must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code; (4) the sheriff must withhold the driver’s license information we have marked under section 552.130 of the Government Code; (5) the sheriff must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code; and (6) the sheriff may withhold the social security numbers you have marked as well as those we have marked under section 552.147. In the event the requestor is the authorized representative of his wife, the sheriff must release her driver’s license information and social security number to the requestor. The remaining information must be released.<sup>5</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

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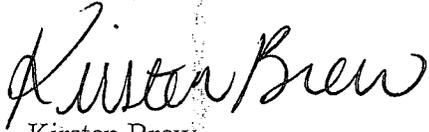
<sup>3</sup>This office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver’s license numbers under section 552.130 of the Government Code and insurance policy numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

<sup>4</sup>We note that section 552.147(b) authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act.

<sup>5</sup>We note the information being released in this instance includes information belonging to the requestor that is confidential with respect to the general public. *See Gov’t Code* § 552.023. Therefore, if the sheriff receives another request for this information from an individual other than this requestor, the sheriff must again seek a ruling from this office.

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,

A handwritten signature in cursive script that reads "Kirsten Brew".

Kirsten Brew  
Assistant Attorney General  
Open Records Division

KB/em

Ref: ID# 421299

Enc. Submitted documents

c: Requestor  
(w/o enclosures)