



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 28, 2011

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

OR2011-09156

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# 422431.

The Williamson County Sheriff's Office (the "sheriff") received a request for information pertaining to a named individual. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.151 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." Section 552.101 encompasses information made confidential by other statutes, including section 261.201 of the Family Code, which provides in relevant 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 [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.

(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 assert the submitted information was used or developed in an investigation of alleged or suspected child abuse or neglect under chapter 261 of the Family Code. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of section 261.201 of Family Code). Upon review, we find the submitted information is within the scope of section 261.201(a). We note, however, that the requestor may be a parent, managing conservator, or other legal representative of the child victim. Further, this individual is not alleged to have committed the suspected abuse. As it is not clear whether the requestor is a parent, managing conservator, or other legal representative of the child victim for purposes of section 261.201(k), we must rule conditionally. If the requestor is not a parent, managing conservator, or other legal representative of the child victim, then the sheriff must withhold the submitted information in its entirety under section 552.101 in conjunction with section 261.201(a) of the Government Code. If,

however, the requestor is a parent, managing conservator, or other legal representative of the child victim, then the sheriff may not withhold the submitted information from this requestor on the basis of section 261.201(a). *See id.* § 261.201(k). Section 261.201(1)(2) states, however, that any information that is excepted from required disclosure under the Act or other law must be withheld from disclosure. *Id.* § 261.201(1)(2). Thus, if the requestor is a parent, managing conservator, or other legal representative of the child victim, then we must address your arguments to withhold the submitted information under sections 552.108 and 552.151 of the Government 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. 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. You state the submitted information pertains to a case that concluded in a result other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to this information.

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* and includes the names of the investigating officers. *See* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic front-page offense and arrest information, the sheriff may withhold the submitted information under section 552.108(a)(2) if the requestor is a parent, managing conservator, or other legal representative of the child victim.<sup>1</sup>

You seek to withhold the identifying information of an undercover deputy from the basic information under section 552.151 of the Government Code, which provides in part the following:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

You represent release of the identifying information of the undercover deputy would subject the deputy to a "substantial threat of physical harm." Based on your representation, we find the sheriff has demonstrated release of the information at issue would subject the deputy to a substantial threat of physical harm. Therefore, we conclude the sheriff must withhold the identifying information of the undercover deputy you have marked under section 552.151.

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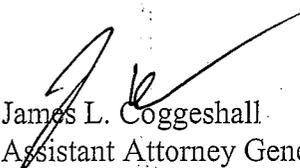
<sup>1</sup>As our ruling is dispositive, we do not address your other arguments to withhold this information.

To conclude, if the requestor is not a parent, managing conservator, or other legal representative of the child victim, then the sheriff must withhold the submitted information in its entirety under section 552.101 in conjunction with section 261.201(a) of the Government Code. If, however, the requestor is a parent, managing conservator, or other legal representative of the child victim, then, with the exception of basic information, the sheriff may withhold the submitted information under section 552.108(a)(2) of the Government Code; however, in releasing the basic information, the sheriff must withhold the information marked under section 552.151 of the Government Code.<sup>2</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 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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/eb

Ref: ID# 422431

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>If the requestor has a special right of access to the information being released, then the sheriff must again seek a decision from this office if it receives another request for the same information from another requestor.