



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

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

OR2011-09364

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# 422430.

The Fort Bend County Sheriff's Office (the "sheriff") received a request for three categories of information pertaining to offense report number 09-15174. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 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 public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 261.201(a) 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.

Fam. Code § 261.201(a). You assert the submitted information is confidential in its entirety under section 261.201. We note the submitted report pertains to an assault between two adults. We find you have not demonstrated how the submitted report was used or developed in an investigation under chapter 261. *See id.* § 261.201(a)(2); *see also id.* §§ 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code), 101.003(a) (defining “child” for purposes of the Family Code). Accordingly, we conclude the submitted report is not confidential in its entirety under section 261.201(a)(2) and it may not be withheld under section 552.101 on that basis. However, we note a portion of the report, which we have marked, pertains to a report of alleged or suspected child abuse. *See id.* § 261.201(a)(1). Accordingly, the information we have marked is within the scope of section 261.201(a)(1). Thus, we conclude the sheriff must withhold the information we have marked under section 552.101 in conjunction with section 261.201(a)(1). *See Open Records Decision No. 440 at 2 (1986) (addressing predecessor statute).*

We now turn to your argument under section 552.108 of the Government Code for the remaining information. Section 552.108(a)(2) 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 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 assert the remaining information pertains to a concluded criminal investigation that did not result in a conviction or deferred adjudication. Based on your representations and our review, we agree section 552.108(a)(2) is applicable to the remaining information.

Section 552.108, however, 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), and includes a detailed description of the offense. *See Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information).* Accordingly, except for the basic information, the sheriff may withhold the remaining information under section 552.108(a)(2).