



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 9, 2012

Mr. Fred M. Barker
Assistant County Attorney
Parker County Attorney's Office
118 West Columbia Street
Weatherford, Texas 76086

OR2012-02064

Dear Mr. Barker:

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# 445005.

The Parker County Sheriff's Office (the "sheriff") received a request for information pertaining to case number 2011-34508. You state some of the requested information has been released. You claim the submitted information is 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. This section encompasses information protected by other statutes. Section 261.201 of the Family Code provides, in relevant part, as follows:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, 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:

...

(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). The submitted information consists of a report of alleged or suspected child abuse made to the sheriff. *See id.* §§ 261.001 (defining “abuse” for purposes of chapter 261 of the Family Code); *see also* Penal Code § 22.04 (defining “child” for purposes of injury to a child as a person 14 years of age or younger). Accordingly, we find this information is subject to chapter 261 of the Family Code. We note, and you acknowledge, the requestor is a parent of the child victim listed in the information, and is not alleged to have committed the abuse. Thus, pursuant to section 261.201(k), the information at issue may not be withheld from this requestor on the basis of section 261.201(a). *See id.* § 261.201(k). However, section 261.201(l)(3) states the identity of the reporting party shall be withheld from disclosure. *Id.* § 261.201(l)(3). Accordingly, we find the sheriff must withhold the identifying information of the reporting party, which we have marked, under section 552.101 of the Government Code in conjunction with section 261.201(l)(3) of the Family Code. Further, section 261.201(l)(2) states any information that is excepted from required disclosure under the Act or other law must still be withheld from disclosure. *Id.* § 261.201(l)(2). Accordingly, we will consider your arguments under sections 552.108, 552.130, and 552.147 of the Government Code for the submitted information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* Gov't Code § 552.108(a)(2). 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 id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the submitted information relates to a concluded investigation that did not result in conviction or deferred adjudication. Based on these representations and our review, we find the sheriff may withhold the information you marked under section 552.108(a)(2) of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by an agency of this state or another state or country is excepted from public release. *See id.* § 552.130. Accordingly, the sheriff must generally withhold the motor vehicle record information you marked under section 552.130 of the Government Code. We note section 552.130 protects personal privacy. In this instance, the requestor may be the spouse of the individual whose motor vehicle record information is at issue. Thus, the requestor may be this individual's authorized representative. If the requestor is the authorized representative of the individual whose motor vehicle record information is at issue, the requestor has a right of access to the individual's motor vehicle record information under section 552.023 of the Government Code and it may not be withheld from her under section 552.130. *See id.* § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves).

Section 552.147(a) of the Government Code excepts the social security number of a living individual from public disclosure. Gov't Code § 552.147. Thus, the sheriff may generally withhold the remaining social security number you have marked under section 552.147 of the Government Code. We note section 552.147 is based on privacy principles. As noted above, in this instance, the requestor may be the authorized representative of the individual whose social security number is at issue. Thus, if the requestor is the authorized representative of that individual, then the sheriff may not withhold the marked social security number under section 552.147 of the Government Code. *See id.* § 552.023(b); ORD 481 at 4.

In summary, the sheriff must withhold the identity of the reporting party, which we have marked, under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code. The sheriff may withhold the information you marked under section 552.108(a)(2) of the Government Code. If the requestor is not the authorized representative of the individual whose motor vehicle record information is at issue, then the sheriff must withhold the motor vehicle record information you marked under section 552.130 of the Government Code, and may withhold the social security number you

marked under section 552.147 of the Government Code. The remaining information must be released.¹

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, 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/agn

Ref: ID# 445005

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note the information being released in this instance includes information that is confidential with respect to the general public. Therefore, if the sheriff receives another request for this information from a different requestor, the sheriff must again seek a ruling from this office.