



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 27, 2012

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

OR2012-02888

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# 447006.

The Williamson County Sheriff's Office (the "sheriff's office") received a request for information concerning meth labs seized in Williamson County during a specified time period. You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.152 of the Government Code.<sup>1</sup> We have considered the claimed exceptions and reviewed the submitted representative sample of information.<sup>2</sup>

Initially, we note portions of the information you have submitted are not responsive to the instant request, which seeks only the dates, addresses, suspects, and location descriptions of the meth labs involved. This ruling does not address the public availability of

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<sup>1</sup>Although you claim the information is excepted under section 552.151 of the Government Code, we note the 82nd Texas Legislature renumbered section 552.151 to section 552.152 of the Government Code. Act of May 9, 2011, 82nd Leg., R.S., S.B. 1303, § 27.001(20).

<sup>2</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.

non-responsive information, and the sheriff's office is not required to release non-responsive information in response to this request. Accordingly, we need not address your arguments under sections 552.108(b)(1), 552.130, and 552.152 of the Government Code.

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 exception encompasses information made confidential by other statutes, such as section 261.201 of the Family Code. Section 261.201 provides, in relevant part:

(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.

Fam. Code § 261.201(a). Upon review, we agree report number 06-09-00123 was used or developed in an investigation under chapter 261. *See id.* §§ 261.001(1) (defining "abuse" for purposes of chapter 261 of the Family Code), 101.003(a) (defining "child" for purposes of section 261.201 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). Therefore, this report is within the scope of section 261.201(a). You do not indicate the sheriff's office has adopted a rule governing the release of this type of information; therefore, we assume no such regulation exists. Given that assumption, we conclude the responsive information in report number 06-09-00123 is confidential pursuant to section 261.201 of the Family Code and must be withheld in its entirety under section 552.101 of the Government Code.

Subsection 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 applies to information held by a "law enforcement agency." However, section 552.108 may be invoked by the proper custodian of information relating to a pending investigation or prosecution of criminal conduct. *See Open Records Decision No. 474 at 4-5 (1987)*. Thus, where a governmental agency has custody of

information that would otherwise qualify for exception under section 552.108 as information relating to the pending case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration that the information relates to the pending case and a representation from the law enforcement agency that it wishes to have the information withheld.

You inform us the Williamson County District Attorney's Office (the "district attorney's office") objects to release of report number 20110800783 because it pertains to a pending criminal prosecution. Based on your representations, we conclude release of the information at issue 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) (specifying law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, the we find section 552.108(a)(1) is generally applies to report number 20110800783.

Subsection 552.108(a)(2) of the Government Code 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). 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 report number 06-06-00285 did not result in a conviction or deferred adjudication. Based on your representation and our review, we find section 552.108(a)(2) generally applies to report number 06-06-00285.

As noted, however, the requestor seeks only the dates, addresses, suspects, and location descriptions of the meth labs involved. Section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 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) (summarizing types of information considered to be basic information), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Basic information must be released even if it does not literally appear on the front page of an offense or arrest report and includes, among other things, the name of the arrestee, date and time of arrest, place of arrest, premises involved, the location and time of occurrence of the crime, and the vehicles involved. *See Open Records Decision No. 127 (1976)* (summarizing types of information deemed public by *Houston Chronicle*). Basic information does not include the identities of suspects who were not arrested. Thus, with the exception of any suspects who were not arrested, we find the information sought by the requestor constitutes basic information that may not be withheld under section 552.108. Therefore, the sheriff's office may withhold the identities of any suspects who were not arrested in report number 20110800783 under section 552.108(a)(1)

and in report number 06-06-00285 under section 552.108(a)(2). The remaining responsive information in report numbers 20110800783 and 06-06-00285 constitutes basic information under section 552.108(c) and may not be withheld under section 552.108.

In summary, the sheriff's department must withhold the responsive information from report number 06-09-00123 under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. The sheriff's office may withhold the identities of any suspects who were not arrested in report number 20110800783 under section 552.108(a)(1) of the Government Code and in report number 06-06-00285 under section 552.108(a)(2) of the Government Code. The remaining responsive information must be released to the requestor.

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,



Misty Haberer Barham  
Assistant Attorney General  
Open Records Division

MHB/eb

Ref: ID # 447006

Enc. Submitted documents

c: Requestor  
(w/o enclosures)