ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 18, 2012

Deputy Danie Huffman
Public Information Officer
Parker County Sheriff's Office
129 Hogle Street
Weatherford, Texas 76086

OR2012-07471

Dear Deputy Huffman:

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# 453995.

The Parker County Sheriff's Office (the "sheriff's office") received a request for two specified case numbers. You state the sheriff's office has released some information to the requestor. You claim portions of the submitted information are excepted from disclosure under section 552.108 of the Government Code. We also understand you to raise section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. We have considered your claims 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(a) of the Family Code provides as follows:

> [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 find some of the submitted information consists of files, reports, records, communications, audiotapes, videotapes, or working papers used or developed in an investigation under chapter 261. *See id.* §§ 101.003(a) (defining "child" for purposes of section 261.201), 261.001(1) (defining "abuse" for purposes of section 261.201). Thus, we conclude case number 2011-33843 is within the scope of section 261.201 of the Family Code. You do not indicate the sheriff's office has adopted a rule that governs the release of this type of information. Therefore, we assume no such rule exists. Given that assumption, case number 2011-33843 is confidential pursuant to section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). Accordingly, the sheriff's office must withhold case number 11-33843 from disclosure in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. However, upon review, we find you have not demonstrated how case number 2011-17364, which relates to an alleged assault of an adult, pertains to an investigation of child abuse for the purposes of chapter 261 of the Family Code. Accordingly, section 261.201 does not apply to case number 2011-17364, and it may not be withheld under section 552.101 of the Government Code on that basis.

You seek to withhold the marked portions of case number 2011-17364 under section 552.108 of the Government Code, which 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 claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You state the information at issue relates to a criminal investigation in which there has been no "adjudication or prosecution[.]" Thus, we understand you to assert the investigation is pending. You further state release of the information at issue would interfere with the investigation and prosecution of the case. Based on your representations and our review, we find the release of the marked information in case number 2011-17364 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) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Accordingly, the sheriff's office may withhold the

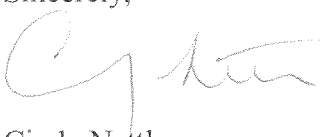
marked information in case number 2011-17364 under section 552.108(a)(1) of the Government Code.

In summary, the sheriff's office must withhold case number 2011-33843 from disclosure in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The sheriff's office may withhold the marked information in case number 2011-17364 under section 552.108(a)(1) of the Government Code. The remaining information must be released.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 453995

Enc. Submitted documents

c: Requestor
(w/o enclosures)