



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 27, 2012

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

OR2012-18945

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# 471929.

The Fort Bend County Sheriff's Office (the "sheriff's office") received a request for a specified supplemental report. 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.

Initially, we note most of the submitted information, which we have marked, is not responsive to the request for information because it does not consist of the requested supplemental report. This decision does not address the public availability of the non-responsive information, and that information need not be released in response to the present request.

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, such as article 63.017 of the Code of Criminal Procedure, which provides the following:

Clearinghouse records that relate to the investigation by a law enforcement agency of a missing child, a missing person, or an unidentified body and

records or notations that the clearinghouse maintains for internal use in matters relating to missing children, missing persons, or unidentified bodies are confidential.

Crim. Proc. Code art. 63.017. You contend the responsive information contains information that is confidential under article 63.017 of the Code of Criminal Procedure. For purposes of article 63.017, "clearinghouse" is defined as the missing children and missing persons information clearinghouse, which is established within the Texas Department of Public Safety. *Id.* arts. 63.001(7), .002(a). The information at issue consists of a supplemental report that was created by the sheriff's office. The supplemental report is not a clearinghouse record for purposes of article 63.017. Therefore, the sheriff's office may not withhold the responsive information under section 552.101 of the Government Code in conjunction with article 63.017 of the Code of Criminal Procedure.

Section 552.101 of the Government Code also encompasses 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.

Fam. Code § 261.201(a). You represent the responsive information contains information that was used or developed in an investigation of alleged or suspected child abuse. *See id.* §§ 101.003(a) (defining "child" as person under eighteen years of age who is not and has not been married and who has not had disabilities of minority removed for general purposes), 261.001(1) (defining "abuse" for purposes of Family Code chapter 261). Upon review, we agree some of the information at issue, which we have marked, consists of a report of alleged or suspected child abuse made to the sheriff's office and the identity of the person making the report. Therefore, we find the marked information is subject to section 261.201(a)(1) 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 regulation exists. Given that assumption, we find the responsive information we have marked is confidential pursuant to section 261.201(a)(1) of the Family Code and must be

withheld in conjunction with section 552.101 of the Government Code.<sup>1</sup> *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). However, the remaining responsive information pertains to a missing persons investigation. Upon review, we find you have failed to establish how this information either consists of a report of alleged or suspected child abuse or neglect under section 261.201(a)(1) or was used or developed in an investigation of alleged or suspected abuse or neglect under section 261.201(a)(2). Thus, none of the remaining responsive information may be withheld under section 552.101 in conjunction with section 261.201(a) of the Family Code.

Section 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). 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 inform us the remaining responsive information relates to a closed criminal investigation that did not result in a conviction or deferred adjudication. Based on these representations and our review, 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.” *Id.* § 552.108(c). Section 552.108(c) refers to the basic front-page offense and arrest 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). *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). The sheriff’s office must release basic information, including a detailed description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. Thus, with the exception of basic information, the sheriff’s office may withhold the remaining responsive information under section 552.108(a)(2) of the Government Code.

In summary, the sheriff’s office must withhold the responsive information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(a)(1) of the Family Code. With the exception of basic information, which must be released, the sheriff’s office may withhold the remaining responsive information under section 552.108(a)(2) of the Government Code.

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<sup>1</sup>As our ruling for this information is dispositive, we need not address your remaining argument against its disclosure.

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,



Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/bhf

Ref: ID# 471929

Enc. Submitted documents

c: Requestor  
(w/o enclosures)