



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 25, 2013

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

OR2013-04831

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# 482048.

The Williamson County Sheriff's Office (the "sheriff's office") received a request for any and all incident reports, notes, records and/or files regarding a specified incident that occurred on December 2, 2012. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor specifically excludes social security numbers, Texas driver's license numbers, Texas license plate numbers, and vehicle identification numbers from the scope of the request. Accordingly, these types of information are not responsive to the instant request. This ruling does not address the public availability of non-responsive information, nor is the sheriff's office required to release non-responsive information to this requestor.

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 section 261.201 of the Family Code, which provides in relevant part:

[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.

...

(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:

(1) any personally identifiable information about a victim or witness under 18 years of age unless that victim or witness is:

(A) the child who is the subject of the report; or

(B) another child of the parent, managing conservator, or other legal representative requesting the information;

(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). We note the submitted report concerns an investigation of assault between two adults. However, you state the information also involves an investigation of alleged neglectful supervision. *See id.* §§ 261.001(4) (defining “neglect” for purposes of chapter 261 of the Family Code), 101.003(a) (defining “child” for purposes of this section 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). Thus, upon review, we find that the submitted information is within the scope of section 261.201 of the Family Code. Accordingly, we find the submitted information is generally confidential under section 261.201 of the Family Code.

We note, however, the requestor may be the legal representative of a parent of the child who was the victim listed in the report, and this parent is not alleged to have committed the suspected abuse. As it is not clear whether the requestor is the legal representative of the parent for purposes of section 261.201(k), we must rule conditionally. If the requestor is not the legal representative of the parent, the submitted information is confidential under section 261.201 of the Family Code and must be withheld in its entirety under section 552.101 of the Government Code. If the requestor is the legal representative of the parent in this instance, the sheriff’s office may not use section 261.201(a) to withhold the information at issue from this requestor. *Id.* § 261.201(k). Section 261.201(l)(2) states any information that is excepted from required disclosure under the Act or other law may still be withheld from disclosure. *Id.* § 261.201(l)(2). Thus, because you also assert sections 552.108 and 552.130 for the submitted information, we will consider your arguments under these sections.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state the requested information pertains to a case that concluded in a result other than conviction or deferred adjudication. Therefore, we agree that section 552.108(a)(2) is applicable.

However, section 552.108 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*. *See* 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 (1976) (summarizing the types of information considered to be basic information). We note basic information includes a detailed description of the offense, but does not include motor vehicle information encompassed by section 552.130 of the Government Code. *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public *Houston Chronicle*). Thus, upon review, with the exception of the basic information, you may withhold the submitted information from disclosure based on section 552.108(a)(1) of the Government Code.

In summary, if the requestor is not the legal representative of the parent of the child victim, the sheriff's office must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. If the sheriff's office determines the requestor is the legal representative of the parent of the child victim, then, with the exception of basic information, the sheriff's office may withhold the submitted information under section 552.108(a)(1) of the Government Code.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,



Britni Fabian
Assistant Attorney General
Open Records Division

BF/dls

Ref: ID# 482048

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹In this instance, the requestor has a special right of access under section 261.201(k) of the Family Code and section 552.023 of the Government Code to the information being released. If the department receives another request for this same information from an individual who does not have a right of access to the information, the department should request another ruling. See Gov't Code §§ 552.301, .302; Open Records Decision No. 673 (2001).