



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 25, 2009

Ms. Michelle T. Rangel
Assistant County Attorney
Fort Bend County
301 Jackson Street, Suite 728
Richmond, Texas 77469-3108

OR2009-08807

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# 346965.

The Fort Bend County Sheriff's Office (the "sheriff") received a request for all visits and reports at a specified address for a specified time period. You state that you have released some of the requested information. You claim that 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 that the requestor agreed to exclude from his request social security numbers, driver's license numbers, and state identification numbers of third parties. Thus, any social security numbers, driver's license numbers, and state identification numbers of third parties within the submitted information are not responsive to the present request for information and the sheriff need not release this information to the requestor in response to his 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. Section 552.101 encompasses section 261.201 of the Family Code, which provides in relevant part:

(a) The 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). You state that report 08-25453 was developed or used in an investigation of alleged child abuse or neglect. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for the purposes of section 261.201); *see also id.* § 101.003(a) (defining “child” for the purposes of section 261.201). Based upon this representation and our review, we find that section 261.201 is applicable to this report. As you do not indicate that the sheriff has adopted a rule governing the release of this type of information, we assume no such regulation exists. Given this assumption, we conclude that report 08-25453 is confidential under section 261.201 of the Family Code and must be withheld from disclosure in its entirety under section 552.101 of the Government Code.¹ *See* Open Records Decision No. 440 at 2 (1986) (construing statutory predecessor to section 261.201).

Section 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 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 that offense report 08-16448, and the associated call-for-service report, relate to a case that is currently undergoing criminal prosecution by the Fort Bend County District Attorney’s Office. Based on your representations and our review of the submitted information, we conclude that the release of offense report 08-16448, and the associated call-for-service report, would interfere

¹We note that the requestor, as a parent of a child who is the subject of reported abuse or neglect, may have a right of access to certain abuse and neglect records maintained by the Texas Department of Family and Protective Services (“DFPS”). Section 261.201(g) of the Family Code provides that DFPS, upon request and subject to its own rules: shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect information concerning the reported abuse or neglect that would otherwise be confidential under this section if DFPS has edited the information to protect the confidentiality of the identity of the person who made the report and any other person whose life or safety may be endangered by the disclosure. Fam. Code § 261.201(g).

with the detection, investigation, or prosecution of crime and is, therefore, subject to section 552.108(a)(1). See *Houston Chronicle Publ'g 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) (court delineates law enforcement interests that are present in active cases).

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 a 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 that the governmental body seeks to withhold. See *id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706. You state that offense report 08-770, and its associated call-for-service report, relate to a case which concluded with a result other than conviction or deferred adjudication. Based on this representation, we conclude that section 552.108(a)(2) is applicable to offense report 08-770 and its associated call-for-service report.

With regard to the related call-for-service report, we note that 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). Section 552.108(c) refers to the basic front-page 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). In Open Records Decision No. 649 (1996), this office concluded that information contained in a computer-assisted dispatch (“CAD”) report is substantially the same as basic information and thus is not excepted from public disclosure under section 552.108. See ORD 649 at 3; see also Open Records Decision No. 394 at 3 (1983) (no qualitative difference between information contained in police dispatch records or radio logs and front-page offense report information expressly held to be public in *Houston Chronicle*). Therefore, the information in the call-for-service reports that you seek to withhold under section 552.108 is basic information. As such, that information may not be withheld under section 552.108(a)(1) and must be released. With the exception of basic information, offense report 08-16448 may be withheld under section 552.108(a)(1) of the Government Code and offense report 08-770 may be withheld under section 552.108(a)(2) of the Government Code.

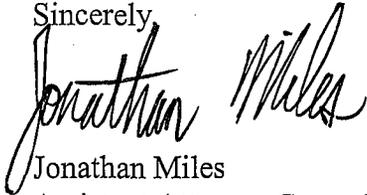
In summary, the sheriff must withhold report 08-25453 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. With the exception of basic information, which includes the submitted call-for-service reports, the

sheriff may withhold offense report 08-16448 under section 552.108(a)(1) of the Government Code and offense report 08-770 under section 552.108(a)(2) of the Government Code.²

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 at (512) 475-2497.

Sincerely,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/cc

Ref: ID# 346965

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note the requestor has a special right of access to some of the information being released in this instance. See Gov't Code § 552.023(a). Because such information may be confidential with respect to the general public, if the sheriff receives another request for this information from a different requestor, the sheriff must again seek a ruling from this office.