



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 10, 2009

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

OR2009-16003

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# 361009.

The Fort Bend County Sheriff's Office (the "sheriff") received a request for information pertaining to a specified case number. You claim that 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 representative sample of information.¹

You state that the requestor has excluded social security numbers, driver's license numbers, and state identification numbers of third parties from her request. Therefore, any such information within the submitted information is not responsive to this request. The sheriff need not release non-responsive information, and this ruling will not address that 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

¹We assume that 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 that those records contain substantially different types of information than that submitted to this office.

Code § 552.101. Section 552.101 encompasses section 261.201 of the Family Code, which provides as follows:

(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 assert that the submitted information is confidential under section 261.201. However, the submitted information relates to the investigation of two individuals' deaths. We find you have not adequately demonstrated that the information at issue involves a report of alleged or suspected child abuse or neglect made under chapter 261, or how this information was used or developed in an investigation under chapter 261. *See id.* § 261.201(a); *see also id.* § 261.001(1), (4) (definition of "abuse" and "neglect" for purposes of chapter 261 of the Family Code); *id.* § 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). Accordingly, we conclude that the submitted information is not confidential under section 261.201 of the Family Code and may not be withheld under section 552.101 on that basis.

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a). Generally, 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 inform us the submitted information relates to a pending criminal investigation. Based upon your representation and our review, we conclude the release of the submitted information 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), *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). Thus, we agree section 552.108(a)(1) is applicable to the submitted information.

We note section 552.108 of the Government Code 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*. See 531 S.W.2d at 186-88. Basic information described in *Houston Chronicle* does not include Texas motor vehicle information subject to section 552.130 of the Government Code. Thus, with the exception of basic information, the sheriff may generally withhold the submitted information under section 552.108(a)(1) of the Government Code.

We note, however, that the requestor states she seeks the submitted information pursuant to subchapter K of chapter 405 of the Texas Administrative Code, which relates to the death of persons served by Texas Mental Health and Mental Retardation facilities or community mental health and mental retardation centers. See 25 T.A.C §§ 405.261-.269. However, the requestor has not cited to any specific provision, nor are we aware of any such law, that provides her with a right of access to the submitted information. Therefore, we find the requestor has failed to demonstrate any such release provisions are applicable in this instance. Accordingly, with the exception of basic information, the sheriff may withhold the submitted information under section 552.108 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, toll free, at (888) 672-6787.

Sincerely,



Christina Alvarado
Assistant Attorney General
Open Records Division

CA/rl

²As our ruling is dispositive, we need not address your remaining arguments against disclosure.

Ref: ID# 361009

Enc. Submitted documents

cc: Requestor
(w/o enclosures)