



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 19, 2010

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

OR2010-00837

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# 367476.

The Williamson County Sheriff's Office (the "sheriff") received two requests for a specified incident report involving certain individuals. 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 both requestors specifically excluded social security numbers, Texas driver's license numbers, Texas license plate numbers, and any vehicle identification numbers from their request. Therefore, such information is not responsive to the requests. The sheriff does not need to release non-responsive information in response to the requests, 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 Code § 552.101. Section 552.101 encompasses information protected by other statutes, including section 261.201 of the Family Code, which provides as follows:

(a) Except as provided by Section 261.203, the 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 [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). You state the submitted information was used or developed in an investigation of alleged or suspected child abuse. *See id.* § 261.001(1) (defining

“abuse” for purposes of chapter 261 of the Family Code); *see also 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). You do not indicate the sheriff has adopted a rule governing release of this type of information. Upon review, we find the submitted information is generally confidential under section 261.201 of the Family Code. However, one of the requestors is the mother of the child victim listed in the report, and the mother is not alleged to have committed the suspected abuse. In this instance, the sheriff may not withhold the submitted information from this requestor under section 261.201(a). *Id.* § 261.201(k). However, the other requestor is not one of the individuals who is authorized to receive access to the submitted information. Thus, the sheriff must withhold the submitted information from the requestor who is not the mother of the child victim under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. Additionally, 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 may not withhold the information from the child victim’s mother under section 261.201, and you also assert section 552.108 of the Government Code for the submitted information, we will address your argument under this section.

Section 552.108(a)(1) 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 submitted information relates to a pending criminal prosecution. Based on this representation, we conclude the release of this 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, section 552.108(a)(1) is applicable to the submitted information.

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* and includes the identity and description of the complainant. *See Open Records Decision No. 127 at 3-4 (1976)* (summarizing types of information deemed public by *Houston Chronicle*). Accordingly, with the exception of basic information, the sheriff may withhold the submitted information under section 552.108(a)(1). In this instance, one of the listed complainants is also the reporting party for purposes of section 261.201 of the Family Code. Section 261.201(l)(3) states the reporting party’s identity must be redacted. *See Fam. Code* § 261.201(l)(3). Thus, with the exception of basic information, the sheriff may withhold the submitted information under section 552.108(a)(1)

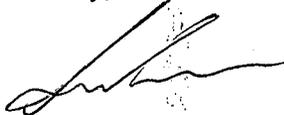
of the Government Code. However, in releasing basic information, the sheriff must withhold the reporting party's identity under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code.

In summary, the sheriff must withhold the submitted information from the requestor who is not the mother of the child victim under section 261.201(a) of the Family Code. The sheriff may withhold the submitted information from the requestor who is the mother of the child victim under section 552.108(a)(1) of the Government Code; however, basic information must be released. In releasing the basic information, the sheriff must withhold the reporting party's identity under section 552.101 of the Government Code in conjunction with section 261.201(1)(3) of the Family Code.

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,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/eeg

Ref: ID# 367476

Enc. Submitted documents

c: Requestor  
(w/o enclosures)