



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 16, 2010

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

OR2010-03715

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# 373757.

The Williamson County Sheriff's Office (the "sheriff") received a request for the booking sheet of a named individual, and for all incidents at a specified address during a particular time period.¹ 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.

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 made confidential by other statutes, including 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

¹The requestor excluded social security, Texas drivers license, license plate, and vehicle identification numbers from the request.

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.

Fam. Code § 261.201(a), (k). Upon review, we find that some of the submitted information consists of files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation or in providing services as a result of an investigation under chapter 261. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code); *id.* § 101.003(a) (defining “child” as a person under eighteen years of age who is not and has not been married and who has not had the disabilities of minority removed for general purposes). We note that the requestor is a parent of the child victim listed in the information. However, the requestor is one of those alleged to have committed the suspected abuse or neglect. Therefore, the information at issue falls within the scope of section 261.201(a), and the requestor does not have a right of access under section 261.201(k). You do not indicate that the sheriff has adopted a rule governing the release of this type of information. Accordingly, we assume no such rule exists. Given that assumption, we conclude that the sheriff must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.² *See* Open Records Decision No. 440 at 2 (1986) (construing statutory predecessor to section 261.201). We find, however, that you have failed to demonstrate that any portion of the remaining information was used or developed

²As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

in an investigation of child abuse or neglect under chapter 261 of the Family Code. *See* Fam. Code § 261.001(1), (4). We therefore conclude that the sheriff may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

You claim that the remaining information is excepted from public disclosure under section 552.108 of the Government Code. Section 552.108(a)(2) 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 the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You assert the remaining information pertains to closed criminal investigations that did not result in conviction or deferred adjudication. Upon review, we agree section 552.108(a)(2) is generally applicable to the remaining information.

We note 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 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). *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the sheriff may withhold the rest of the information from disclosure based on section 552.108(a)(2) of the Government Code.

In summary, the sheriff must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. With the exception of basic information, the sheriff may withhold the rest of the information from disclosure based on section 552.108(a)(2) of the Government 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, 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 373757

Enc. Submitted documents

c: Requestor
(w/o enclosures)