



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 30, 2010

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

OR2010-06274

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# 377939.

The Fort Bend County Sheriff's Office (the "sheriff") received a request for all police and sheriff records and 9-1-1 calls for three specified addresses. You state you will release a portion of the information. You also state the requestor has agreed to allow the sheriff to redact social security numbers and Texas driver's license numbers from the responsive information. Thus, such information is not responsive to the present request and this ruling will not address that information. You claim that the responsive 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 representative sample of information.<sup>1</sup>

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 of the Government Code also encompasses information protected by section 58.007 of the Family Code, which makes confidential juvenile law

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<sup>1</sup>We 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.

enforcement records relating to conduct that occurred on or after September 1, 1997. The relevant language of section 58.007 reads:

(c) Except as provided by subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B, D, and E.

Fam. Code § 58.007(c). Report numbers 98-4161 and 00-3295 involve juvenile delinquent conduct that occurred after September 1, 1997. *See id.* § 51.03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision”). For purposes of section 58.007(c), a “child” is a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). You do not indicate, nor does it appear, that any of the exceptions in section 58.007 apply to this report. Therefore, report numbers 98-4161 and 00-3295 are confidential under section 58.007(c) of the Family Code and must be withheld in their entirety under section 552.101 of the Government Code.<sup>2</sup>

Section 552.101 also encompasses 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 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

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<sup>2</sup>As our ruling for this information is dispositive, we need not address your remaining argument against disclosure.

(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 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). Upon review, we find that report numbers 08-18799, 08-17829, 08-11651, 06-13250, and 06-634 and call slip A081420276 were used or developed in investigations into alleged child abuse and neglect under chapter 261. See Fam. Code § 261.001(1), (3) (defining "abuse" and "neglect" for purposes of Family Code ch. 261); 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). Based on your representations and our review, we conclude that this information is within the scope of section 261.201 of the Family Code. Accordingly, the sheriff must withhold report numbers 08-18799 and 06-13250 and call slip

A081420276 in their entirety under section 552.101 in conjunction with section 261.201(a) of the Family Code.<sup>3</sup> We also find that report numbers 08-17829, 08-11651, and 06-634 are generally confidential under section 261.201 of the Family Code.

We note, however, that the requestor may be the parent of one of the child victims listed in the report numbers 08-17829, 08-11651, and 06-634. Further, this individual is not alleged to have committed the suspected abuse or neglect. As it is not clear whether the requestor is a parent of this child victim for purposes of section 261.201(k), we must rule conditionally. If the requestor is not the parent of one of the child victims listed in report numbers 08-17829, 08-11651, and 06-634, then these reports must also be withheld in their entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

If the requestor is the father of one of the child victims, the sheriff may not use section 261.201(a) to withhold the information at issue from him. *Id.* § 261.201(k). However, we note section 261.201(l) provides that before a parent can copy and inspect a record of a child under section 261.201(k), any personally identifiable information about a victim or witness under 18 years of age who is not the parent's child and the identity of the party who made the report must be redacted. *Id.* § 261.201(l)(1), (3). Furthermore, 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). You assert that these reports are excepted from public disclosure under section 552.108 of the Government Code. Thus, to the extent the requestor is the father of one of the child victims in report numbers 08-17829, 08-11651, and 06-634, we will consider your remaining argument under section 552.108 for this and the remaining information.

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: (2) 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). 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 conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that report numbers 08-17829, 08-11651, 06-634, as well as report numbers 08-21967, 08-8039, 06-20068, 07-15748, 07-21114, and 05-26337 relate to concluded investigations conducted by the sheriff that did not result in a conviction or deferred adjudication. Based on your representation and our review, we

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<sup>3</sup>As our ruling for this information is dispositive, we need not address your remaining argument against disclosure.

conclude that section 552.108(a)(2) is applicable to report numbers 08-17829, 08-11651, 06-634, 08-21967, 08-8039, 06-20068, 07-15748, 07-21114, and 05-26337.

You also raise section 552.108(a)(1) of the Government Code for report numbers 08-19803 and 07-20467. 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(a)(1) 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, and provide documentation stating, that report numbers 08-19803 and 07-20467 relate to pending criminal cases. Based on your representation and our review, we conclude that the release of these reports 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). Accordingly, section 552.108(a)(1) is applicable to report numbers 08-19803 and 07-20467.

However, section 552.108 does not except from required public disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Thus, the sheriff must release the types of basic information listed in *Houston Chronicle*. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). As we noted above, section 261.201(l) of the Family Code states the personally identifiable information about a victim or witness under 18 years of age who is not the parent’s child and the identity of the party who made the report must be redacted. *See* Fam. Code § 261.201(l)(1), (3). Therefore, with the exception of basic information, which you state you will release, the sheriff may withhold report numbers 08-17829, 08-11651, 06-634, 08-21967, 08-8039, 06-20068, 07-15748, 07-21114, and 05-26337 under section 552.108(a)(2) of the Government Code and report numbers 08-19803 and 07-20467 under section 552.108(a)(1) of the Government Code.<sup>4</sup> However, in releasing basic information in report numbers 08-17829, 08-11651, and 06-634, the sheriff must withhold any personally identifiable information of the child victims who are listed as complainants and are not the children of the requestor and the reporting parties’ identity from the description of the offense under section 552.101 in conjunction with section 261.201(l)(1) and section 261.201(l)(3) of the Family Code.

In summary, the sheriff must withhold report numbers 98-4161 and 00-3295 in their entirety under section 552.101 in conjunction with section 58.007 of the Family Code. The sheriff must withhold report numbers 08-18799 and 06-13250 and call slip A081420276 in their

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<sup>4</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure.

entirety under section 552.101 in conjunction with section 261.201(a) of the Family Code. If the requestor is not the parent of one of the child victims listed in report numbers 08-17829, 08-11651, and 06-634, then the sheriff must withhold these reports in their entirety under section 552.101 in conjunction with section 261.201(a) of the Family Code. However, if the requestor is the parent of one of the child victims listed in report numbers 08-17829, 08-11651, and 06-634, then with the exception of basic information, the sheriff may withhold these reports under section 552.108(a)(2) of the Government Code. In releasing basic information in these reports, the sheriff must withhold the identifying information of the child victims who are listed as complainants and are not the children of the requestor and the reporting parties' identity from the description of the offense under section 552.101 in conjunction with section 261.201(1)(1) and section 261.201(1)(3) of the Family Code. With the exception of basic information, which you state you will release, the sheriff may withhold report numbers 08-21967, 08-8039, 06-20068, 07-15748, 07-21114, and 05-26337 under section 552.108(a)(2) of the Government Code and report numbers 08-19803 and 07-20467 under section 552.108(a)(1) 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](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,



Andrea L. Caldwell  
Assistant Attorney General  
Open Records Division

ALC/eeg

Ref: ID# 377939

Enc. Submitted documents

c: Requestor  
(w/o enclosures)