



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 8, 2010

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

OR2010-15367

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# 396268.

The Fort Bend County Sheriff's Office (the "sheriff") received a request for information pertaining to a specified case number. 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.

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 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.

...

(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.

(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 the submitted information was used or developed in an investigation of alleged or suspected child abuse under chapter 261 of the Family Code. *See id.* § 261.001(1) (defining “abuse” 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). Thus, the submitted information falls within the scope of section 261.201 of the Family Code. However, the requestor is the parent of the child victim listed in the submitted information and is not alleged to have committed the alleged or suspected abuse. In this instance, the sheriff may not use section 261.201(a) to

withhold this information from this requestor. *Id.* § 261.201(k). We note, however, section 261.201(l)(3) provides that before a parent can copy and inspect a record of a child under section 261.201(k), the identity of the party who made the report must be redacted. *Id.* § 261.201(l)(3). Further, section 261.201(l)(2) provides that any information excepted from required disclosure under the Act or other law must be withheld from disclosure. *Id.* § 261.201(l)(2). You also assert the submitted information is excepted from public disclosure under section 552.108 of the Government Code. Accordingly, we will consider your argument under section 552.108 for this 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 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 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 a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the submitted information pertains to an investigation that did not result in a conviction or deferred adjudication. Based on your representation and our review, we conclude section 552.108(a)(2) of the Government Code 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 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), and includes the identity of the complainant. *See* Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). In this instance, the listed complainant is also the reporting party for purposes of section 261.201 of the Family Code. As noted above, section 261.201(l)(3) of the Family Code states the reporting party’s identity must be redacted. *See* Fam. Code § 261.201(l)(3). Therefore, with the exception of basic information, the sheriff may withhold the submitted information under section 552.108(a)(1). However, in releasing basic information, the sheriff must withhold the reporting party’s identifying information, which we have marked, under section 261.201(l)(3) of the Family Code.<sup>1</sup>

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<sup>1</sup>We note the basic information being released contains confidential information regarding the alleged child victim to which the requestor has a right of access as the child’s parent. *See* Fam. Code § 261.201(k). If the sheriff receives another request for this particular information from a different requestor, then the sheriff should again seek a decision from this office.

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,



Christina Alvarado  
Assistant Attorney General  
Open Records Division

CA/tp

Ref: ID# 396268

Enc. Submitted documents

c: Requestor  
(w/o enclosures)