



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 1, 2011

Mr. David K. Walker  
County Attorney  
Montgomery County  
207 West Phillips, Suite 100  
Conroe, Texas 77301

OR2011-12714

Dear Mr. Walker:

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# 428643.

The Montgomery County Sheriff's Office (the "sheriff") received a request for incident report number 11A008339. You claim the submitted incident report 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 the submitted incident report number 11A008339 reflects the sheriff investigated the incident as an alleged child abuse case. Thus, the requested information is confidential under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.<sup>1</sup> See Fam. Code § 261.201(a) (providing information used or developed in investigation of alleged or suspected child abuse or neglect is confidential). In this instance, however, the requestor is a parent of the child victim listed in the report, and the parent is not alleged to have committed the alleged abuse. As such, the

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<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. This section encompasses information other statutes make confidential.

requested information may not be withheld from this requestor under section 261.201(a).<sup>2</sup> *Id.* § 261.201(k) (providing child's parent can obtain information that is subject to section 261.201(a) concerning reported abuse or neglect of child as long as parent is not alleged to have committed abuse or neglect). Section 261.201(1)(2), however, provides any information that is excepted from required disclosure under the Act or other law may still be withheld from disclosure. *Id.* § 261.201(1)(2). We will, therefore, consider your argument against disclosure under section 552.108 of the Government Code.

Section 552.108(a)(1) 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 . . . 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 incident report number 11A008339 pertains to a pending criminal investigation. Based on this representation and our review, 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) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

Section 552.108, however, does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*, and includes the identity of the complainant. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). In this instance, the complainant is also the reporting party for purposes of section 261.201 of the Family Code. Section 261.201(1)(3) states that, notwithstanding section 261.201(k), the identity of the reporting party must be withheld. *See* Fam. Code § 261.201(1)(3). Thus, with the exception of basic information, the sheriff may withhold incident report number 11A008339 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.

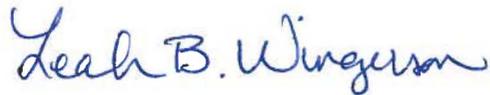
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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<sup>2</sup>Because the submitted information would otherwise be excepted from release under the Act, the sheriff must again seek a decision from this office if it receives a request for this information from a different requestor.

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,

A handwritten signature in blue ink that reads "Leah B. Wingerson". The signature is written in a cursive, flowing style.

Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/dls

Ref: ID# 428643

Enc. Submitted documents

c: Requestor  
(w/o enclosures)