



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 10, 2022

Mr. Andrew Wipke
Assistant County Attorney
Fort Bend County
401 Jackson Street, 3rd Floor
Richmond, Texas 77469

OR2022-07211

Dear Mr. Wipke:

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# 935024 (Reference No. 0109).

The Fort Bend County Sheriff's Office (the "sheriff's office") received a request for all call outs and police reports pertaining to four stated addresses during defined time periods. You state the sheriff's office will release some responsive information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public 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 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 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 [chapter 261 of the Family Code] 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 [chapter 261 of the Family Code] or in providing services as a result of an investigation.

Fam. Code § 261.201(a). You inform us the information pertaining to report numbers 15-31161, 16-25016, and 20-44817 relate to investigations of alleged or suspected child abuse or neglect conducted by the sheriff's office. *See id.* § 261.001(1), (4) (defining "abuse" and "neglect" for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining "child" for purposes of section 261.201 as a 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). Additionally, we find call slip number P2030987 was used or developed in an investigation conducted under chapter 261 of the Family Code. Upon review, we find the information at issue is within the scope of section 261.201(a) of the Family Code. As you do not indicate the sheriff's office has adopted a rule that governs the release of this type of information, we assume no such regulation exists. Given that assumption, we conclude the sheriff's office must withhold the information pertaining to report numbers 15-31161, 16-25016, and 20-44817 and call slip number P2030987 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.¹ *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

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: (1) 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 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);

¹ As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

see also Ex parte Pruitt, 551 S.W.2d 706 (Tex. 1977). You state the information pertaining to report numbers 21-32242, 21-34054, and 21-45373 relate to ongoing criminal investigations or pending prosecutions. Based upon this representation, we conclude the release of the information at issue 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). Thus, section 552.108(a)(1) is applicable to the information pertaining to report numbers 21-32242, 21-34054, and 21-45373.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. *See Gov't Code* § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the information at issue 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). You assert the information pertaining to report number 20-47308 relates to a criminal investigation that concluded in a result other than conviction or deferred adjudication. Based upon your representation, we conclude section 552.108(a)(2) is applicable to the information pertaining to report number 20-47308.

However, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *See id.* § 552.108(c). Section 552.108(c) refers to the basic information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, the sheriff’s office may withhold the information pertaining to report numbers 21-32242, 21-34054, and 21-45373 under section 552.108(a)(1) of the Government Code and the information pertaining to report number 20-47308 under section 552.108(a)(2) of the Government Code.

In summary, the sheriff’s office must withhold the information pertaining to report numbers 15-31161, 16-25016, and 20-44817 call slip number P2030987 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. With the exception of basic information, which must be released, the sheriff’s office may withhold the information pertaining to report numbers 21-32242, 21-34054, and 21-45373 under section 552.108(a)(1) of the Government Code and the information pertaining to report number 20-47308 under 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

James M. Graham
Assistant Attorney General
Open Records Division

JMG/jxd

Ref: ID# 935024

Enc. Submitted documents

c: Requestor
(w/o enclosures)