



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 9, 2009

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

OR2009-09441

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# 348418.

The Fort Bend County Sheriff's Office (the "sheriff") received a request for all complaints pertaining to eight named individuals at two specified addresses during certain time periods, including information regarding four particular offenses. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, we note the requestor agreed to exclude from her request driver's license numbers, state identification numbers, and social security numbers. Thus, any driver's license numbers, state identification numbers, or social security numbers within the submitted documents are not responsive to the present request for information and the sheriff need not release this information to the requestor in response to her request.

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

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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.

Code § 552.101. This section encompasses confidentiality provisions such as section 58.007 of the Family Code. The relevant language of section 58.007(c) reads as follows:

(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.

Fam. Code § 58.007(c). Under section 58.007, juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential. *See id.* § 51.03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision”). For purposes of section 58.007, a “child” is person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). Upon review, we conclude that report numbers 000003415 and 000005777 involve juvenile delinquent conduct that occurred after September 1, 1997. You do not indicate any of the exceptions in section 58.007 apply to this information. Therefore, we find that section 58.007 is applicable to report numbers 000003415 and 000005777, and they must be withheld under section 552.101 of the Government Code. Although you assert that report numbers 95050403 and 89030005 are also subject to section 58.007, we note that this section is inapplicable because the conduct in the reports at issue occurred in 1989 and 1995. Former section 51.14 of the Family Code is the applicable provision in this instance. Prior to its repeal by the Seventy-Fourth Legislature, section 51.14(d) provided for the confidentiality of juvenile law enforcement records. *See* Open Records Decision No. 181 (1977) (concluding that former section 51.14(d) of the Family Code excepts police reports which identify juvenile suspects or furnish basis for their identification). Law enforcement records pertaining to juvenile conduct occurring before January 1, 1996 are governed by former section 51.14(d), which was continued in effect for that purpose. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2591. Section 51.14 only applies to records of a “child,” which is defined as a person who is ten years of age or older and under seventeen years of age. *See* Fam. Code § 51.02(2).

In this instance, report number 95050403 involves juvenile conduct indicating a need for supervision that occurred in 1995. Therefore, report number 95050403 is confidential under former section 51.14 of the Family Code and must be withheld under section 552.101 of the

Government Code. *See id.* § 51.04(a) (Title 3 covers cases involving delinquent conduct or conduct indicating need for supervision engaged in by a child). However, report number 89030005 does not name or identify a specific juvenile suspect. Therefore, we conclude report number 89030005 is not confidential under section 51.14(d) of the Family Code and may not be withheld on that basis.

Next, you raise section 552.108 of the Government Code for a portion of the remaining information. 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 must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state report numbers 02-25560, 000005788, and 89030005 relate to pending criminal investigations. We note, however, these reports involve an alleged theft, criminal mischief, and terroristic threat that occurred in 2002, 2000, and 1989, respectively. The statute of limitations for the type of offenses described in these reports is two years. *See* Crim. Proc. Code art. 12.02 (indictment for misdemeanor may be presented within two years from the date of the commission of the offense, and not afterward). More than two years have elapsed since the events giving rise to the investigations in report numbers 02-25560, 000005788, and 89030005, and you have not informed this office any criminal charges were filed within the limitations periods. Furthermore, you have not otherwise explained how release of these reports would interfere with the detection, investigation, or prosecution of crime. Thus, incident report numbers 02-25560, 000005788, and 89030005 may not be withheld under section 552.108(a)(1) of the Government Code.

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. 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 a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state report numbers 02-8481, 07-26025, 990006022, and 000003074 relate to closed cases that did not result in a prosecution, conviction, or deferred adjudication. Based on your representations, we conclude section 552.108(a)(2) is applicable to report numbers 02-8481, 07-26025, 990006022, and 000003074.

Section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 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). *See* Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). Thus, with the exception of basic information, which

you state you have released, the sheriff may withhold report numbers 02-8481, 07-26025, 990006022, and 000003074 pursuant to section 552.108(a)(2) of the Government Code.<sup>2</sup>

You claim the remaining information includes information protected by section 552.130 of the Government Code, which provides information relating to a motor vehicle title or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(2). Accordingly, the sheriff must withhold the Texas motor vehicle record information we have marked within report number 89030005 under section 552.130.

In summary, report numbers 000003415 and 000005777 must be withheld under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. Report number 95050403 must be withheld under section 552.101 in conjunction with former section 51.14 of the Family Code. With the exception of basic information, which you state you have released, the sheriff may withhold report numbers 02-8481, 07-26025, 990006022, and 000003074 pursuant to section 552.108(a)(2) of the Government Code. The sheriff must withhold the Texas motor vehicle record information we have marked within report number 89030005 under section 552.130 of the Government Code. The remaining information must be released.

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 at (512) 475-2497.

Sincerely,



Christina Alvarado  
Assistant Attorney General  
Open Records Division

CA/rl

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

Ref: ID# 348418

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

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