



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 28, 2009

Ms. Jordan Hale
Assistant Attorney General
Assistant Public Information Coordinator
General Counsel Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2009-15259A

Dear Ms. Hale:

This office issued Open Records Letter No. 2009-15259 (2009) on October 27, 2009. In that decision, although Office of the Attorney General (the "OAG") sought to withhold the information under section 261.201 of the Family Code, we concluded, except for basic information, the OAG may withhold the information under section 552.108(a)(1). Where this office determines that an error was made in the decision process under sections 552.301 and 552.306, we will correct the previously issued ruling. Consequently, this decision serves as the correct ruling and is a substitute for the decision issued on October 27, 2009. *See generally* Gov't Code 552.011 (providing this office may issue decision to maintain uniformity in application, operation, and interpretation of Public Information Act (the "Act")).

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 359849 (PIR No. 09-25796).

The OAG received a request for information pertaining to the arrest of Stephen Sudduth. The OAG states the information is excepted from disclosure under sections 552.101 and

552.108 of the Government Code. We have considered the OAG's claimed exceptions to disclosure and have reviewed the submitted sample of information.¹

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 261.201 of the Family Code reads in part as follows:

(a) [T]he 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

(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.

Fam. Code § 261.201(a). Because the OAG explains the requested documents are used or developed in an investigation of sexual assault of children, the documents are within the scope of section 261.201 of the Family Code. The OAG states it has not adopted a rule governing the release of this type of information. Therefore, the requested documents are confidential pursuant to section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). Accordingly, the OAG must withhold these documents from disclosure under section 552.101 of the Government Code as information made confidential by law. Because section 552.101 is dispositive, we do not address the OAG's section 552.108 claim.

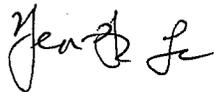
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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_or1.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877)

¹We assume 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.

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 359849

Enc: Submitted documents

c: Requestor
(w/o enclosures)