



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 20, 2011

Captain Greg Minton
Leander Police Department
705 Leander Drive
Leander, Texas 78641

OR2011-05516

Dear Captain Minton:

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# 418732.

The Leander Police Department (the "department") received a request for "Public information excluding names of juveniles not charged with felonies CPHS reports on suspected abuse of children and names of sexual assault victims found in the basic information . . . for all Incident Reports generated from calls for service" during a specified period of time.¹ You state the department has made some of the requested information available to the requestor.² You claim the submitted information is excepted from disclosure

¹The department sought and received clarification of the information requested. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* Open Records Decision No. 31 (1974) (when presented with broad requests for information rather than for specific records, governmental body may advise requestor of types of information available so that request may be properly narrowed).

²You inform us the department has redacted from the information made available to the requestor vehicle information, driver's license, and credit card numbers. *See* Open Records Decision No. 684 (2009) (previous determination authorizing any governmental body to withhold ten categories of information, including Texas driver's license and license plate numbers under section 552.130 of the Government Code and credit card numbers under section 552.136 of the Government Code, without necessity of requesting attorney general opinion). You also inform us the department has redacted social security numbers pursuant to section 552.147 of the Government Code. *See* Gov't Code § 552.147(b) (governmental body may redact social security number without necessity of requesting decision from this office under the Act).

under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.³

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 261.201(a) of the Family Code provides as follows:

[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). You assert incident reports LPD110308 and LPD110338 were used or developed in investigations under chapter 261. Upon review, we find these reports are within the scope of section 261.201 of the Family Code. *See id.* § 261.001(1) (defining "abuse" for purposes of chapter 261.201 of Family Code). You do not indicate the department has adopted a rule that governs the release of this type of information; therefore, we assume no such rule exists. Given that assumption, 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 department must withhold incident reports LPD110308 and LPD110338 from disclosure under section 552.101 of the Government Code as information made confidential by law.

Section 552.101 also encompasses section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are confidential under section 58.007. Section 58.007(c) provides as follows:

³We 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 those records contain substantially different types of information than that submitted to this office.

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). For purposes of section 58.007, a child is defined as a person who is ten years of age or older and younger than seventeen years of age. *Id.* § 51.02(2) (defining “child”). Incident reports LPD110302, LPD110310, LPD110316, and LPD110330 involve delinquent conduct by children or conduct indicating a need for supervision that occurred after September 1, 1997. *See id.* § 51.03 (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of section 58.007). Therefore, these reports are subject to section 58.007. Accordingly, the department must withhold incident reports LPD110302, LPD110310, LPD110316, and LPD110330 under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. However, the individual involved in incident report LPD110336 is seventeen years old and, therefore, not a child under section 51.02(2) of the Family Code. Accordingly, section 58.007(c) does not apply to this report, and the department may not be withhold it under section 552.101 on that basis.

You assert the remaining information is excepted under section 552.108 of the Government Code. Section 552.108(a) 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[.]” Generally, 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 Gov’t Code* §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the remaining information relates to pending criminal investigations. Based on this representation, 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).

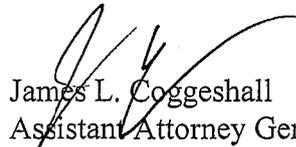
However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. Thus, with the exception of the basic front-page offense and arrest information, the department may withhold the remaining information under section 552.108(a)(1).

To conclude, the department must withhold incident reports LPD110308 and LPD110338 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code and incident reports LPD110302, LPD110310, LPD110316, and LPD110330 under section 552.101 in conjunction with section 58.007 of the Family Code.⁴ With the exception of basic information, the department may withhold the remaining information under section 552.108(a)(1) 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 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tf

Ref: ID# 418732

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁴As our ruling is dispositive, we do not address your other argument to withhold this information.