



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

April 29, 2011

Chief Don Hatcher  
Leander Police Department  
705 Leander Drive  
Leander, Texas 78641

OR2011-05888

Dear Chief Hatcher:

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# 415867.

The Leander Police Department (the "department") received a request for the basic information of all incident detail reports generated from calls for service between January 26, 2011 and February 5, 2011. You state the department has released some information to the requestor. You indicate you have redacted social security numbers under section 552.147 of the Government Code, as well as 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 pursuant to Open Records Decision No. 684 (2009).<sup>1</sup> Additionally, you state you advised the requestor of certain redactions made pursuant to section 552.1175(h) of the Government Code. We note, however, section 552.1175(h) pertains only to notifying a requestor of redacting information pursuant to sections 552.1175(b) and 552.1175(f) of the Government Code, not to redacting information under other exceptions in the Act. You claim that the remaining information is

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<sup>1</sup>Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b). Open Records Decision No. 684 is a previous determination that authorizes all governmental bodies 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 the necessity of requesting an attorney general decision.

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 that much of the submitted information is not responsive to the request. The requestor seeks only “[t]he basic information” for the incident reports at issue.<sup>2</sup> Thus, any information outside the scope of basic information is not responsive to the request. This ruling does not address the public availability of that information, and the department need not release any non-responsive information.

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 protected by other statutes, such as section 58.007 of the Family Code, which provides in pertinent part 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 Subchapters B, D, and E.

Fam. Code § 58.007(c). Juvenile law enforcement records relating to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997 are confidential under section 58.007. *See id.* § 51.03(b) (defining “delinquent conduct” and defining “conduct indicating a need for supervision” to include “the voluntary absence of a child from the child’s home without the consent of the child’s parent or guardian for a substantial length of time or without intent to return”). For purposes of section 58.007(c), “child” means a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). We agree that cases 110174, 110164, 110157, 110153, 110151,

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<sup>2</sup> 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).

and 110147 each involve a child engaged in delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. We also note case 110148 involves a child engaged in delinquent conduct that occurred after September 1, 1997. As such, these reports constitute juvenile law enforcement records that are confidential pursuant to section 58.007(c). It does not appear that any of the exceptions to confidentiality under section 58.007 apply to any of the reports at issue. Accordingly, the department must withhold the responsive information for these seven reports under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.<sup>3</sup>

Section 552.101 of the Government Code also encompasses section 261.201 of the Family Code, which provides in relevant part:

(a) Except as provided by Section 261.203, the 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 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.

*Id.* § 261.201(a). We note the remaining report, case 110162, was used or developed in an investigation under chapter 261 of the Family Code. *See id.* § 261.001(1)(E) (“abuse” for purposes of chapter 261 of the Family Code includes indecency with a child under Penal Code section 21.11); *see also* Penal Code § 21.11(a) (defining “child” for purposes of indecency with a child as person under 17 years of age). Thus, we find case 110162 falls within the scope of section 261.201 of the Family Code. You do not indicate the department has adopted a rule governing the release of this type of information; therefore, we assume no such rule exists. Given that assumption, we conclude case 110162 is confidential pursuant to section 261.201(a) of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). Accordingly, the department must withhold the responsive information from this report under section 552.101 of the Government Code.<sup>4</sup>

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<sup>3</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

<sup>4</sup>As our ruling is dispositive, we need not address your arguments against disclosure of this information.

In summary, the department must withhold the responsive information from cases 110174, 110164, 110157, 110153, 110151, 110147, and 110148 under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. The department must withhold the responsive information from case 110162 under section 552.101 of the Government Code in conjunction with section 261.201 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.

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,



Kate Hartfield  
Assistant Attorney General  
Open Records Division

KH/em

Ref: ID# 415867

Enc. Submitted documents

c: Requestor  
(w/o enclosures)