



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 13, 2012

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

OR2012-18211

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# 472478.

The Fort Bend County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified address. You claim the requested information is exempted from disclosure 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.¹

Section 552.101 of the Government Code exempts 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, including section 261.201(a) of the Family Code, which 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

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

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). Upon review, we find incident reports number 11-18601 and 12-4529 were used or developed in investigations under chapter 261. *See id.* §§ 101.003(a) (defining “child” for purposes of section 261.201), 261.001(1) (defining “abuse” for purposes of section 261.201). Thus, this information is within the scope of section 261.201 of the Family Code. You do not indicate the sheriff’s office has adopted a rule that governs the release of this type of information. Therefore, we assume no such rule exists. Given that assumption, the sheriff’s office must withhold incident reports number 11-18601 and 12-4529 under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.² *See Open Records Decision No. 440 at 2 (1986) (predecessor statute).*

Section 552.101 of the Government Code also encompasses section 58.007(c) of the Family Code, which reads as follows:

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.

²As our ruling is dispositive, we do not address your other arguments to withhold this information.

Fam. Code § 58.007(c). Incident reports number 11-18919 and 12-24628 involve alleged juvenile delinquent conduct occurring after September 1, 1997. *See id.* §§ 51.02(2) (for purposes of section 58.007, “child” means a person who is ten years of age or older and under seventeen years of age), 51.03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of section 58.007). None of the exceptions in section 58.007 appear to apply. Therefore, the sheriff’s office must withhold incident reports number 11-18919 and 12-24628 under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.³

Finally, you assert incident report number 12-20849 is excepted from disclosure under section 552.108 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. A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state incident report number 12-20849 pertains to a case that concluded in a result other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to this information.

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 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). Thus, with the exception of the basic front-page offense and arrest information, the sheriff’s office may withhold incident report number 12-20849 under section 552.108(a)(2).

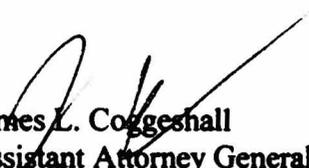
To conclude, the sheriff’s office must withhold incident reports number 11-18601 and 12-4529 under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. The sheriff’s office must also withhold incident reports number 11-18919 and 12-24628 under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. With the exception of basic information, the sheriff’s office may withhold incident report number 12-20849 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.

³As our ruling is dispositive, we do not address your other arguments to withhold this information.

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/tch

Ref: ID# 472478

Enc. Submitted documents

c: Requestor
(w/o enclosures)