



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 12, 2013

Ms. Michelle T. Rangel
Assistant County Attorney
Fort Bend County Attorney's Office
301 Jackson Street, Suite 728
Richmond, Texas 77469

OR2013-09886

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# 490924.

The Fort Bend County Sheriff's Office (the "sheriff's office") received a request for all information from a specified time period, including two specified reports, pertaining to the requestor, two specified addresses, and a named individual. You state the sheriff's office has released some information. You claim the submitted information is 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.

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. Section 552.101 encompasses information that other statutes make confidential, such as 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. 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* Fam. Code § 51.02(2). Section 58.007 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.

Id. § 58.007(c). Upon review, we find the submitted information pertaining to report 09-24766 involves a juvenile runaway. Thus, we agree this information involves a juvenile engaged in conduct indicating a need for supervision and is subject to section 58.007. *See id.* § 51.03(b) (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”). None of the exceptions in section 58.007 appear to apply; therefore, the submitted information pertaining to report 09-24766 is confidential under section 58.007(c) of the Family Code and must be withheld in its entirety under section 552.101 of the Government Code.¹

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

(a) [T]he 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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Department of Family and Protective Services] or the Texas Youth Commission, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential

¹As our ruling is dispositive, we need not address your remaining arguments for this information.

under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

Id. § 261.201(a), (k). You assert the submitted information pertaining to reports 07-4559 and 08-20893 was used or developed by the sheriff's office in investigations under chapter 261. Upon review, we agree the information at issue is subject to chapter 261. *See id.* § 261.001(1), (4) (defining "abuse" and "neglect" for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining "child" for purposes of chapter 261). You have not indicated the sheriff's office has adopted a rule that governs the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption, the submitted information pertaining to report 07-4559 is confidential under section 261.201(a) of the Family Code and must be withheld under section 552.101 of the Government Code.²

Although the requestor is a parent of the child victims listed in the submitted information pertaining to report 08-20893, the requestor is alleged to have committed the alleged child abuse. Thus, the requestor does not have a right of access to this information under section 261.201(k). *See id.* § 261.201(k). Accordingly, the sheriff's office must withhold the submitted information pertaining to report 08-20893 under section 552.101 of the Government Code in conjunction with section 261.201(k) of the Family Code.³

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. *See 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 concluded in a final result other than a conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). You state the submitted information pertaining to reports 07-3611, 08-7996, 09-909, and 10-24380 relates to concluded criminal investigations that did not result in convictions or deferred adjudications. Based on your representations and our review, we conclude section 552.108(a)(2) is applicable to the information at issue.

We note, however, 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 also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the sheriff's office may withhold the submitted information pertaining to

²As our ruling is dispositive, we need not address your remaining arguments for this information.

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reports 07-3611, 08-7996, 09-909, and 10-24380 under section 552.108(a)(2) of the Government Code.

In summary, the sheriff's office must withhold the submitted information pertaining to report 09-24766 under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. The sheriff's office must withhold the submitted information pertaining to report 07-4559 under section 552.101 in conjunction with section 261.201(a) of the Family Code. The sheriff's office must withhold the submitted information pertaining to report 08-20893 under section 552.101 in conjunction with section 261.201(k) of the Family Code. With the exception of basic information, which the sheriff's office must release, the sheriff's office may withhold the submitted information pertaining to reports 07-3611, 08-7996, 09-909, and 10-24380 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.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/tch

Ref: ID# 490924

Enc. Submitted documents

c: Requestor
(w/o enclosures)