



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 8, 2013

Ms. Jeri Yenne  
Criminal District Attorney  
County of Brazoria  
111 East Locust, Suite 408A  
Angleton, Texas 77515

OR2013-19598

Dear Ms. Yenne:

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# 505107.

The Brazoria County Sheriff's Office (the "sheriff's office") received a request for "call logs and all non-confidential information" for a specified treatment center during a specified period of time.<sup>1</sup> You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note, and you acknowledge, the requestor has specifically excluded the identifying information of patients of the treatment center from her request. Thus, the identifying information of treatment center patients is not responsive to the request. This ruling does not address the public availability of any information that is not responsive to the request, and the sheriff's office need not release any such information.

---

<sup>1</sup>You state the sheriff's office sought and received clarification of the request for information. See Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

Section 552.101 of the Government Code exempts from public 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 other statutes make confidential, such as section 576.005 of the Health and Safety Code, which provides, "[r]ecords of a mental health facility that directly or indirectly identify a present, former, or proposed patient are confidential unless disclosure is permitted by other state law." Health & Safety Code § 576.005. You contend the submitted information is confidential because it relates to children at a mental health facility. However, we note the submitted information consists of law enforcement records of the sheriff's office. Accordingly, the sheriff's office has failed to demonstrate section 576.005 applies to the submitted information. Therefore, the sheriff's office may not withhold the submitted information under section 552.101 of the Government Code in conjunction with section 576.005 of the Health and Safety Code.

Section 552.101 of the Government Code also encompasses section 58.007 of the Family Code which provides in relevant part:

(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(c). *See id.* § 51.03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision"). For purposes of section 58.007(c), a "child" is a person who is ten years of age or older and under seventeen years of age at the time of the reported conduct. *See id.* § 51.02(2). Upon review, we find case number 1305-0194 involves a child allegedly engaged in delinquent conduct that occurred after September 1, 1997. You do not indicate, nor does it appear, that any of the exceptions in section 58.007 apply to this information. Therefore, the sheriff's office must withhold

case number 1305-0194 in its entirety under section 552.101 in conjunction with section 58.007(c) of the Family Code.<sup>2</sup>

We also find incident number 1657514 involves delinquent conduct that occurred after September 1, 1997. However, we are unable to determine the age of the juvenile suspect from the information at issue. Accordingly, we must rule conditionally. You do not indicate, nor does it appear, that any of the exceptions in section 58.007 apply to the information at issue. Thus, if the suspect identified in incident number 1657514 was ten years of age or older and under seventeen years of age at the time of the incident, incident number 1657514 is confidential pursuant to section 58.007(c) of the Family Code, and must be withheld in its entirety under section 552.101. However, if this information pertains to a suspect who was not ten years of age or older and under seventeen years of age at the time of the incident, the information at issue is not confidential pursuant to section 58.007(c), and may not be withheld under section 552.101. In either event, we find the sheriff's office has failed to demonstrate the remaining information consists of juvenile law enforcement records that involve a child engaged in delinquent conduct or conduct indicating a need for supervision for purposes of section 58.007. Therefore, none of the remaining information may be withheld under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

Section 552.101 of the Government Code also encompasses information protected by other statutes. Section 261.201 of the Family Code provides, in part, as follows:

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

...

(h) This section does not apply to an investigation of child abuse or neglect in a home or facility regulated under Chapter 42, Human Resources Code.

---

<sup>2</sup>As our ruling is dispositive for this information, we need not address your remaining argument against its disclosure.

*Id.* § 261.201(a), (h). You contend some of the remaining information is confidential under section 261.201(a). However, we note the information at issue is related to investigations that occurred in a child care facility that is regulated by the Texas Department of Family and Protective Services (“DFPS”) under chapter 42 of the Human Resources Code. Section 261.201 does not apply to an investigation of alleged or suspected child abuse or neglect in a home or facility regulated under chapter 42. *Id.* § 261.201(h). Therefore, section 261.201(a) of the Family Code is not applicable to the information at issue, and the sheriff’s office may not withhold any portion of the information at issue under section 552.101 of the Government Code on that basis.

We note some of the remaining responsive information is subject to section 552.130 of the Government Code.<sup>3</sup> Section 552.130 excepts from disclosure information that relates to a motor vehicle operator’s or driver’s license or permit, title, or registration issued by an agency of this state or another state or country. Gov’t Code § 552.130(a)(1)-(2). Accordingly, the sheriff’s office must withhold the motor vehicle record information we have marked under section 552.130.<sup>4</sup>

In summary, the sheriff’s office must withhold (1) case number 1305-0194 in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code; (2) incident number 1657514 in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code if the suspect identified in the report was ten years of age or older and under seventeen years of age at the time of the incident; and (3) the motor vehicle record information we have marked under section 552.130 of the Government Code. The remaining responsive information must be released.

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](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

---

<sup>3</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>4</sup>We note section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov’t Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle R. Garza", with a long horizontal line extending to the right.

Michelle R. Garza  
Assistant Attorney General  
Open Records Division

MRG/som

Ref: ID# 505107

Enc. Submitted documents

c: Requestor  
(w/o enclosures)