



February 5, 2015

Ms. Elizabeth Hanshaw Winn
Assistant County Attorney
County of Travis
P.O. Box 1748
Austin, Texas 78767

OR2015-02283

Dear Ms. Winn:

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# 552835.

The Travis County Sheriff's Office (the "sheriff's office") received a request for four specified incident reports. You state you have released some information to the requestor. 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 section 261.201(a) of the Family Code, which provides:

(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.

Fam. Code § 261.201(a). You claim report number 14-30043 was used or developed in an investigation of alleged child abuse or neglect. *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 governing the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption, report number 14-30043 is confidential under section 261.201 of the Family Code and must be withheld under section 552.101 of the Government Code.

Section 552.101 also encompasses section 58.007 of the Family Code. 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). 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(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision”). 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 at the time of the conduct at issue. *See id.* § 51.02(2).

You state report number 14-29709 may relate to juvenile delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. However, we are unable to determine the age of the alleged offender. It does not appear that any of the exceptions to confidentiality under section 58.007 apply in this instance. Thus, to the extent

the offender was ten years of age or older and under seventeen years of age at the time of the conduct at issue, report number 14-29709 is confidential under section 58.007(c) of the Family Code and the sheriff's office must withhold the information in its entirety under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.¹ However, to the extent the offender was not ten years of age or older and under seventeen years of age at the time of the conduct at issue, the information at issue is not confidential pursuant to section 58.007(c) and may not be withheld under section 552.101 on that basis. In that instance, we will consider your argument under section 552.108(a)(1) of the Government Code for report number 14-29709.

Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). 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 id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state report numbers 14-29547, 14-29709, and 14-30042 relate to active criminal investigations and release of the information would interfere with such investigations. *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). Based on these representations and our review, we conclude section 552.108(a)(1) of the Government Code is applicable to the remaining information at issue.

However, as you acknowledge, section 552.108 does not except from disclosure basic information about a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. 531 S.W.2d at 186–87; 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 report numbers 14-29547 and 14-30042 under section 552.108(a)(1) of the Government Code. Further, to the extent the offender at issue in report number 14-29709 was not ten years of age or older and under seventeen years of age at the time of the conduct at issue, except for basic information, the sheriff's office may withhold report number 14-29709 under section 552.108(a)(1) of the Government Code.

In summary, the sheriff's office must withhold report number 14-30043 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. To the extent the offender in report number 14-29709 was ten years of age or older and under seventeen years of age at the time of the conduct at issue, the sheriff's office must withhold report number 14-29709 under section 552.101 of the Government Code in

¹In this instance, our ruling is dispositive and we need not consider your remaining argument against disclosure of this information.

conjunction with section 58.007 of the Family Code. Otherwise, with the exception of basic information, the sheriff's office may withhold report number 14-29709 under section 552.108(a)(1) of the Government Code. With the exception of basic information, the sheriff's office may withhold report numbers 14-29547 and 14-30042 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.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,



Joseph Behnke
Assistant Attorney General
Open Records Division

JB/cbz

Ref: ID# 552835

Enc. Submitted documents

c: Requestor
(w/o enclosures)