



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 26, 2010

Ms. Michelle T. Rangel
Assistant County Attorney
Fort Bend County
301 Jackson Street, Suite 728
Richmond, Texas 77469-3108

OR2010-16196

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# 397951.

The Fort Bend County Sheriff's Office (the "sheriff") received a request for all call slips and reports pertaining to four specified addresses from January 2006 to the date of the request. You state the sheriff released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 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 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 protected by other statutes, 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. The relevant language of section 58.007 reads 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,

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.

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). Upon review, we agree report number 08-32129 and related call slip involve juvenile delinquent conduct that occurred after September 1, 1997. *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. *See id.* § 51.02(2). You do not indicate, nor does it appear, that any of the exceptions in section 58.007 apply to this information. Therefore, the sheriff must withhold report number 08-32129 and related call slip under section 552.101 in conjunction with section 58.007(c).²

Section 552.101 of the Government Code also encompasses section 261.201 of the Family Code, which provides as follows:

(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.

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

Id. § 261.201(a). Upon review, we agree report number 07-18344 and related call slip consist of files, reports, records, communications or working papers used or developed in an investigation under chapter 261. *See id.* § 261.001(1)(E) (definition of child abuse includes sexual assault under Penal Code section 22.011); *see also* Penal Code § 22.011(c)(1) (defining “child” for purposes of Penal Code section 22.011 as a person younger than 17 years of age). Thus, we find the information at issue is within the scope of section 261.201. You do not indicate the sheriff has adopted a rule that governs the release of this type of information; therefore, we assume no such regulation exists. Given that assumption, we conclude report number 07-18344 and related call slip are confidential under section 261.201(a) and the sheriff must withhold them under section 552.101.³ *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

We now address your arguments under section 552.108 for the remaining information. 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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *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 10-15389 and 10-16721 and related calls slips relate to currently pending criminal investigations. Based on your representations and our review of the information at issue, we conclude the release of this information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g 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) (court delineates law enforcement interests that are present in active cases). Thus, section 552.108(a)(1) is applicable to report numbers 10-15389 and 10-16721 and related call slips.

Section 552.108(a)(2) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code §552.108(a)(2). You state incident report numbers 09-1575, 09-1777, 09-10722, and 10-6682 and related call slips relate to criminal investigations that did not result in convictions or deferred adjudications. Based on your representations and our review of the information at issue, we conclude section 552.108(a)(2) is applicable to report numbers 09-1575, 09-1777, 09-10722, and 10-6682 and related call slips.

³As our ruling for this information is dispositive, we need not address your remaining arguments against its disclosure.

As you acknowledge, basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. *Id.* § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-87; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). The sheriff must release basic information, even if this information does not literally appear on the front page of an offense or arrest report. Thus, with the exception of basic information, the sheriff may withhold report numbers 10-15389 and 10-16721 and related call slips under section 552.108(a)(1) and report numbers 09-1575, 09-1777, 09-10722, and 10-6682 and related call slips under section 552.108(a)(2).⁴

In summary, the sheriff must withhold report number 08-32129 and related call slip under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. The sheriff must also withhold report number 07-18344 and related call slip under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. Except for basic information, the sheriff may withhold report numbers 10-15389 and 10-16721 and related call slips under section 552.108(a)(1) of the Government Code and report numbers 09-1575, 09-1777, 09-10722, and 10-6682 and related call slips 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.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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

⁴As our ruling for this information is dispositive, we need not address your remaining arguments against its release.

Ref: ID# 397951

Enc. Submitted documents

c: Requestor
(w/o enclosures)