



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 20, 2011

Captain Greg Minton
Leander Police Department
705 Leander Drive
Leander, Texas 78641

OR2011-08686

Dear Captain Minton:

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# 421096.

The Leander Police Department (the "department") received a request for "Public information (excluding names of juveniles not charged with felonies; CPHS reports on suspected abuse of children; names of sexual assault victims; license plate numbers and drivers license numbers) found in the basic information . . . for all Incident Detail Reports generated from calls for service" during a specified period of time. You state the department has released some information to the requestor. You also state you have redacted social security numbers under section 552.147 of the Government Code.¹ You explain you have redacted credit card numbers under section 552.136 of the Government Code pursuant to Open Records Decision No. 684 (2009).² Additionally, you state you advised the requestor of certain redactions made pursuant to section 552.1175(h) of the Government Code. We note, however, section 552.1175(h) pertains only to notifying a requestor of redacting

¹Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).

²Open Records Decision No. 684 is a previous determination that authorizes all governmental bodies to withhold ten categories of information, including credit card numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

information pursuant to sections 552.1175(b) and 552.1175(f) of the Government Code, not to redacting information under other exceptions in the Act. You claim that 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.

Initially, we note that some of the submitted information is not responsive to the request. The requestor seeks only “[t]he basic information” for the incident reports at issue.³ Thus, any information outside the scope of basic information is not responsive to the request. This ruling does not address the public availability of that information, and the department need not release any non-responsive 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. This exception encompasses information other statutes make confidential, such as section 58.007 of the Family Code. Section 58.007 reads 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). Under section 58.007(c), juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential. *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 assert case number LPD110408 is confidential under section 58.007. Upon review, we agree case number

³Basic 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).

LPD110408 involves juvenile delinquent conduct that occurred after September 1, 1997. You do not indicate, nor does it appear, any of the exceptions in section 58.007 apply to this information. Thus, the department must withhold case number LPD110408 under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

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

(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.

Id. § 261.201(a). You indicate, and we agree, case number LPD110416 was used or developed in an investigation under chapter 261 of the Family Code. *See id.* § 261.001(1) (defining “abuse” for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining “child” for purposes of chapter 261). Thus, we find case number LPD110416 falls within the scope of section 261.201 of the Family Code. You do not indicate the department has adopted a rule governing the release of this type of information; therefore, we assume no such rule exists. Given that assumption, we conclude the department must withhold case number LPD110416 under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.

In summary, the department must withhold case number LPD110408 under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. The department also must withhold case number LPD110416 under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.⁴

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.

⁴As our ruling is dispositive, we need not address your remaining argument.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 421096

Enc. Submitted documents

c: Requestor
(w/o enclosures)