



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 17, 2011

Ms. Katie Lentz
Open Records
Williamson County Sheriff's Office
508 South Rock Street
Georgetown, Texas 78626

OR2011-17005

Dear Ms. Lentz:

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# 436519.

The Williamson County Sheriff's Office (the "sheriff") received three requests for information pertaining to a specified death. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.117, 552.1175, 552.130, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the representative sample of information.¹

Initially, we note some of the requested information appears to be the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2011-13195 (2011). We have no indication the law, facts, and circumstances on which the prior ruling was based have changed. Accordingly, to the extent the requested information is identical to the information previously requested and ruled upon by this office in the prior ruling, the sheriff must continue to rely on that ruling as a previous determination and withhold the requested information in accordance with Open Records Letter

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.

No. 2011-13195. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). To the extent the requested information is not encompassed by Open Records Letter No. 2011-13195, we will address your arguments against its release.

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. 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 reported conduct. *See* Fam. Code § 51.02(2). Section 58.007 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.

Id. § 58.007(c). Upon review, we agree the information we have marked involves juvenile delinquent conduct occurring after September 1, 1997; therefore, this information is subject to section 58.007(c). *See id.* § 51.03 (defining “delinquent conduct”). Accordingly, the sheriff must withhold this information under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.² We note, however, section 58.007 is not applicable to information that relates to a juvenile as a complainant, victim, witness, or other involved party and not as a suspect or offender. Accordingly, we find the sheriff has

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

failed to establish how the remaining information constitutes juvenile law enforcement records subject to section 58.007. Therefore, the sheriff may not withhold any of the remaining information under section 552.101 on the basis of section 58.007 of the Family Code.

Section 552.101 also encompasses section 261.201(a) 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.

Id. § 261.201(a). You state the remaining information was used or developed in an investigation of alleged abuse or neglect of children. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Family Code ch. 261); *see also id.* § 101.003(a) (defining “child” for purposes of this section). Upon review, we agree the remaining information, which we have marked, is subject to section 261.201 of the Family Code. Therefore, the sheriff must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.³ *See* Open Records Decision No. 440 at 2 (1986) (addressing predecessor statute).

In summary, the sheriff must continue to rely on Open Records Letter No. 2011-13195 as a previous determination and withhold the requested information to the extent it is identical to the requested information in that prior ruling. The sheriff must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. The sheriff must withhold the remaining information we have marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

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

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,

A handwritten signature in black ink, appearing to read 'Sarah Casterline', with a stylized flourish extending to the right.

Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/ag

Ref: ID# 436519

Enc. Submitted documents

c: 3 Requestors
(w/o enclosures)