



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 10, 2012

Mr. C. Wade Overstreet
Assistant Potter County Attorney
Potter County Attorney's Office
500 South Fillmore, Room 303
Amarillo, Texas 79101

OR2012-19830

Dear Mr. Overstreet:

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# 477488.

The Potter County Sheriff's Office (the "sheriff's office") received a request for report number 2011-14390 and any reports pertaining to two specified addresses during a specified time period. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You inform us report number 2011-14390 was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2012-15747 (2012). In that ruling, we determined report number 2011-14390 must be withheld under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. You state there has been no change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, we conclude the sheriff's office must continue to rely on Open Records Letter No. 2012-15747 as a previous determination and withhold report number 2011-14390 in accordance with that ruling. *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 information is or is not excepted

from disclosure). We will consider your arguments for the submitted information that is not subject to the prior ruling.

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 made confidential by other statutes, such as section 261.201 of the Family Code. Section 261.201(a) provides as follows:

(a) [T]he 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). We note the information at issue was used or developed in an investigation of alleged child abuse. *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 this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). Upon review, we find this information falls within the scope of section 261.201(a). You have not indicated the sheriff’s office has adopted a rule that governs the release of this type of information. Therefore, we assume that no such regulation exists. Given that assumption, we conclude the information at issue is confidential under section 261.201(a) of the Family Code, and the sheriff’s office must withhold it in its entirety under section 552.101 of the Government Code.¹ *See* Open Records Decision No. 440 at 2 (1986) (addressing predecessor statute).

In summary, the sheriff’s office must continue to rely on Open Records Letter No. 2012-15747 and withhold report number 2011-17390 in accordance with that ruling. The sheriff’s office must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

¹As our ruling is dispositive, we need not address your arguments as to 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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/ag

Ref: ID# 477488

Enc. Submitted documents

c: Requestor
(w/o enclosures)