



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 23, 2013

Ms. Tiffany N. Leal
Chief Civil Prosecutor
Comal County Criminal District Attorney's Office
150 North Seguin Avenue, Suite 307
New Braunfels, Texas 78130-5161

OR2013-18443

Dear Ms. Leal:

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# 504542 (Comal File No. 13-OR-097).

The Comal County Sheriff's Office (the "sheriff's office") received a request for two specified calls for service. You state the sheriff's office is withholding social security numbers pursuant to section 552.147 of the Government Code. *See Gov't Code § 552.147(b)* (governmental body may redact living person's social security number from public release without necessity of requesting decision from this office under the Act). The sheriff's office claims the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Initially, you state the sheriff's office will redact certain information under section 552.130 of the Government Code pursuant to the previous determination issued by our office in Open Records Letter No. 2004-8640 (2004). However, the previous determination in that ruling was issued to the Office of the Attorney General, not the sheriff's office. As such, the sheriff's office may not rely on Open Records Letter No. 2004-8640 as a previous determination to withhold any information. *See Open Records Decision No. 673 (2001)* (listing elements of second type of previous determination under Gov't Code § 552.301(a)). However, we note section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking

a decision from the attorney general. Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section encompasses information protected by other statutes. Section 261.201 of the Family Code provides in relevant part as follows:

[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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Department of Family and Protective Services] or the Texas Youth Commission, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

Fam. Code § 261.201(a), (k). You assert the submitted information was used or developed in an investigation of alleged or suspected child abuse or neglect under chapter 261 of the Family Code. *See id.* §§ 101.003(a) (defining "child" for purposes of section 261.201), 261.001(1), (4) (defining "abuse" and "neglect" for purposes of section 261.201). Upon review, we find the submitted information is within the scope of section 261.201(a). Although the requestor is a parent of the child victim listed in the submitted reports, the reports also reflect the requestor was suspected of committing the alleged or suspected abuse. Therefore, we determine the requestor does not have a right of

access to the submitted information under section 261.201(k). *See id.* § 261.201(k). Therefore, we conclude the sheriff's office must withhold the submitted information under section 552.101 in conjunction with section 261.201 of the Family Code.¹ *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

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,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

Ref: ID# 504542

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we do not address your other arguments to withhold this information.