



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 28, 2013

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

OR2013-18759

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# 503619 (Ref. No. 13-OR-096).

The Comal County Sheriff's Office (the "sheriff's office") received a request for "all incident reports, 9-1-1 calls or calls-for-service reports . . . pertaining to alleged victimization, violence or potential harm to youth under age 21, including reports of assault, threats, [and] runaways" at a specified treatment center during a specified period of time. You state the sheriff's office will redact social security numbers pursuant to section 552.147(b) of the Government Code.<sup>1</sup> You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim 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

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<sup>1</sup>Section 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. See Gov't Code § 552.147(b).

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. *See* 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).

Next, we note the requestor has specifically excluded the identifying information of residents of the treatment center from her request. Thus, the identifying information of treatment center residents is not responsive to the request. We have also marked information that falls outside the scope of the categories of information requested and, thus, is not responsive to the request. This ruling does not address the public availability of any information that is not responsive to the request, and the sheriff's office need not release any such 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 section encompasses information protected by other statutes, such as section 58.007 of the Family Code which 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.

Fam. Code § 58.007(c). Juvenile law enforcement records relating to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997, are confidential under section 58.007(c). *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 at the time of the reported conduct. *See id.* § 51.02(2). We note section 58.007(c) does not apply

to law enforcement records that relate to a juvenile only as a complainant, victim, witness, or other involved party; rather the juvenile must be involved as a suspect, offender, or defendant. *See id.* § 58.007(c). Upon review, we find the information we have marked involves children allegedly engaged in delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. You do not indicate, nor does it appear, that any of the exceptions in section 58.007 apply to this information. Therefore, the sheriff's office must withhold the information we have marked in its entirety under section 552.101 in conjunction with section 58.007(c) of the Family Code. However, we find you have failed to demonstrate the remaining information consists of juvenile law enforcement records which involve a child engaged in delinquent conduct or conduct indicating a need for supervision for purposes of section 58.007. Therefore, none of the remaining information may be withheld under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

Section 552.101 of the Government Code also encompasses section 261.201(a) of the Family Code, which provides:

(a) Except as provided by Section 261.203, the following information is confidential, is not subject to public release under chapter 552, Government Code, 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). Upon review, we find some of the remaining information, which we have marked, was used or developed in an investigation of alleged child abuse under chapter 261 of the Family Code. *See id.* § 261.001(1) (defining "abuse" for purposes of Family Code chapter 261); *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). You have not indicated the sheriff's office has adopted a rule that governs the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption, the report we have marked is confidential under section 261.201(a) of the Family Code and must be withheld under section 552.101 of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130(a). Upon review, we find none of the remaining information consists of motor vehicle record information subject to section 552.130. Thus, none of the remaining information may be withheld on that basis.

In summary, the sheriff's office must withhold the responsive information we have marked in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code and section 261.201(a) of the Family Code. The remaining responsive information must be released.

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](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,



Michelle R. Garza  
Assistant Attorney General  
Open Records Division

MRG/som

Ref: ID# 503619

Enc. Submitted documents

c: Requestor  
(w/o enclosures)