



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 20, 2013

Mr. Paul J. Stewart  
Assistant County Attorney  
Fort Bend County  
301 Jackson Street, Suite 728  
Richmond, Texas 77469

OR2013-22267

Dear Mr. Stewart:

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# 513815.

The Fort Bend County Sheriff's Office (the "sheriff's office") received a request for all reports filed on the requestor. You claim the requested 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

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 section 261.201 of the Family Code, which 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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Sheriff's office 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.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

...

(2) any information that is excepted from required disclosure under [the Act], or other law[.]

Fam. Code § 261.201(a), (k), (l)(2). You state incident report numbers 09-15941 and 09-31101 were used or developed in investigations of alleged or suspected child abuse or neglect. *See id.* § 261.001 (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). Based on your representations and our review, we find incident report numbers 09-15941 and 09-31101 are generally confidential under section 261.201 of the Family Code.

In this instance, the requestor is a parent of the child victims listed in incident report number 09-15941. However, report number 09-15941 reflects the requestor is alleged to have committed the suspected abuse or neglect at issue in that report. Accordingly, this requestor does not have a right of access to incident report number 09-15941 pursuant to section 261.201(k). *See id.* § 261.201(k). Thus, we conclude incident report

number 09-15941 must be withheld in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.<sup>1</sup>

The requestor is also a parent of the child victim listed in report number 09-31101 and is not alleged to have committed the suspected abuse or neglect at issue in that report. As such, this requestor has a right of access to report number 09-31101 pursuant to section 261.201(k). *Id.* § 261.201(k). Accordingly, the sheriff's office may not use section 261.201(a) to withhold this report from the requestor. *Id.* However, section 261.201(l)(2) states any information that is excepted from required disclosure under the Act or other law may still be withheld from disclosure. *Id.* § 261.201(l)(2). You raise section 552.108(a)(2) as an exception to disclosure. Therefore, we will address the applicability of section 552.108 of the Government Code to report number 09-31101.

Section 552.108(a)(2) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code §552.108(a)(2). You state incident report numbers 09-29241, 09-31101, 10-1588, and 11-7764 relate to criminal investigations that did not result in conviction or deferred adjudication. Based on your representation and our review of the information at issue, we conclude that section 552.108(a)(2) is applicable to this information.

We note that basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. *Id.* § 552.108(c). Such basic 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). With the exception of basic information, which must be released, the sheriff's office may withhold incident report numbers 09-29241, 09-31101, 10-1588, and 11-7764 under section 552.108(a)(2) of the Government Code.<sup>2</sup>

In summary, the sheriff's office must withhold incident report number 09-1594 in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. With the exception of basic information, which must be released, the sheriff's office may withhold incident report numbers 09-29241, 09-31101, 10-1588, and 11-7764 under section 552.108(a)(2) of the Government Code.

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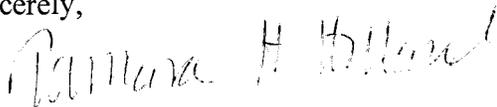
<sup>1</sup>As our ruling on incident report number 09-15941 is dispositive, we need not address your remaining argument against its disclosure.

<sup>2</sup>As our ruling is dispositive for this information, we need not address your remaining argument.

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,



Tamara H. Holland  
Assistant Attorney General  
Open Records Division

THH/ac

Ref: ID# 513815

Enc. Submitted documents

c: Requestor  
(w/o enclosures)