



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 22, 2014

Ms. Michelle T. Rangel  
Assistant County Attorney  
Fort Bend County  
401 Jackson Street, Third Floor  
Richmond, Texas 77469

OR2014-12640

Dear Ms. Rangel:

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# 529969.

The Fort Bend County Sheriff's Office (the "sheriff's office") received a request for records regarding a specified address during a defined time frame. You state the sheriff's office will release some of the responsive information. You claim the submitted 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 representative sample of information.<sup>1</sup>

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(a) of the Family Code, which provides:

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<sup>1</sup>We 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 that those records contain substantially different types of information than that submitted to this office.

(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.

Fam. Code § 261.201(a). Upon review, we find report number 14-11448 and call slip numbers P141180264 and P141150500 were used or developed in investigations under chapter 261. *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 section 261.201 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). Therefore, this information is within the scope of section 261.201. You do not indicate the city’s police department has adopted a rule governing the release of this type of information; therefore, we assume no such regulation exists. Given that assumption, we conclude report number 14-11448 and call slip numbers P141180264 and P141150500 are confidential under section 261.201(a) of the Family Code and must be withheld in their entireties under section 552.101 of the Government Code.<sup>2</sup>

Section 552.101 of the Government Code also encompasses section 58.007 of the Family Code, which provides, in relevant part, the following:

(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

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

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). 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”); *see also id.* § 51.04. 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 conduct. *Id.* § 51.02(2). Upon review, we find report number 14-11198 constitutes a law enforcement record of 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 to confidentiality in section 58.007 apply to this information. Therefore, the sheriff’s office must withhold report number 14-11198 under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.<sup>3</sup>

However, as we are unable to determine the ages of the alleged offenders in report number 14-4146 and call slip number P140440637, we must rule conditionally with respect to this information. Thus, to the extent the alleged offenders were ten years of age or older and under seventeen years of age at the time of the reported conduct, report number 14-4146 and call slip number P140440637 are confidential under section 58.007(c) of the Family Code and must be withheld in their entireties under section 552.101 of the Government Code. However, to the extent the alleged offenders were not ten years of age or older and under seventeen years of age at the time of the reported conduct, report number 14-4146 and call slip number P140440637 are not confidential under section 58.007(c) and may not be withheld under section 552.101 of the Government Code on that basis. In that instance, we will consider your remaining arguments for this information.

Section 552.108(a)(1) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that report number 14-4146 and call slip number P140440637 relate to a pending criminal investigation. Based upon this representation, we conclude section 552.108(a)(1) is applicable and the release of report number 14-4146 and call slip number P140440637

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<sup>3</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

would interfere with the detection, investigation, or prosecution of crime. See *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. See *id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state report number 13-25067 and call slip number P132520660 pertain to a case that was dismissed. Thus, you state this information pertains to an investigation that did not result in a conviction or deferred adjudication. Based on this representation, we agree section 552.108(a)(2) is applicable to report number 13-25067 and call slip number P132520660.

However, section 552.108 does not except from disclosure basic information about a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. 531 S.W.2d at 186-87. Thus, with the exception of basic information, the sheriff's office may withhold report number 14-4146 and call slip number P140440637 under section 552.108(a)(1) of the Government Code and report number 13-25067 and call slip number P132520660 under section 552.108(a)(2) of the Government Code.

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office has found a compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual's privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and noted that individual has significant privacy interest in compilation of one's criminal history). Furthermore, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. Upon review, we find the sheriff's office has failed to demonstrate any of the basic information is highly intimate or embarrassing and a matter of no legitimate public interest. Therefore, no portion of the basic information may be withheld under section 552.101 in conjunction with common-law privacy.

In summary, the sheriff's office must withhold report number 14-11448 and call slip numbers P141180264 and P141150500 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The sheriff's office must withhold report number 14-11198 under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. To the extent the alleged offenders in report number 14-4146 and call slip number P140440637 were ten years of age or older and under seventeen years of age at the time of the reported conduct, the sheriff's office must withhold this information under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. To the extent report number 14-4146 and call slip number P140440637 are not subject to section 58.007(c) of the Family Code, then, with the exception of basic information, the sheriff's office may withhold the information under section 552.108(a)(1) of the Government Code. Except for basic information, the sheriff's office may withhold report number 13-25067 and call slip number P132520660 under section 552.108(a)(2) of the Government Code.

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,



Britni Fabian  
Assistant Attorney General  
Open Records Division

BF/tch

Ref: ID# 529969

Enc. Submitted documents

c: Requestor  
(w/o enclosures)