



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 30, 2014

Ms. Rebecca Hendricks Brewer
Attorney for City of Frisco
Abernathy, Roeder, Boyd, & Joplin, P.C.
P.O. Box 1210
McKinney, Texas 75070-1210

OR2014-19670

Dear Ms. Brewer:

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# 541545.

The Frisco Police Department (the "department"), which you represent, received multiple requests for information pertaining to a murder investigation and any calls for service pertaining to a specified address. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 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. This section encompasses information protected by other statutes. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are confidential under section 58.007(c) of the Family Code, which reads as follows:

(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). 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 reported conduct. *See id.* § 51.02(2). The information pertaining to incident report number 14070918 involves juvenile delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. *See id.* § 51.03 (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of Fam. Code § 58.007). It does not appear any of the exceptions in section 58.007 apply. Therefore, the department must withhold the submitted information related to incident report number 14070918 in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.¹

Section 552.101 of the Government code also encompasses section 261.201 of the Family Code, which provides, in part, as follows:

(a) [T]he 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, call report numbers 07044974 and 07045188 and incident report number 07045188 consist of information used or developed in an investigation of alleged or suspected child abuse. *See id.* §§ 261.001 (defining “abuse” for purposes of

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

chapter 261 of the Family Code), 101.003(a) (defining “child” for purposes of chapter 261 of the Family Code). Accordingly, we find call report numbers 07044974 and 07045188 and incident report number 07045188 are subject to chapter 261 of the Family Code. We have no indication the department has adopted a rule that governs the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption, we conclude call report numbers 07044974 and 07045188 and incident report number 07045188 are confidential pursuant to section 261.201 of the Family Code, and the department must withhold them under section 552.101 of the Government Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

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 the remaining information relates 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 the remaining information.

We note, however, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *Id.* § 552.108(c). Section 552.108(c) refers to the basic “front-page” 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). Further, in Open Records Decision No. 649 (1996), this office concluded information contained in a computer-aided dispatch (“CAD”) report is substantially the same as basic information and, thus, is not excepted from public disclosure under section 552.108. *See* ORD 649 at 3; *see also* Open Records Decision No. 394 at 3 (1983) (no qualitative difference between information contained in radio cards or radio logs and front-page offense report information expressly held to be public in *Houston Chronicle*). Accordingly, with the exception of basic information, which must be released, the department may withhold the remaining information under section 552.108(a)(2) of the Government Code.

In summary, the department must withhold the information related to incident report number 14070918 in its entirety under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. The department must withhold call report numbers 07044974 and 07045188 and incident report number 07045188 under section 261.201 of the Family Code in conjunction with section 552.101 of the Government Code. With the exception of basic information, the department may withhold the remaining information under section 552.108(a)(2).

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,



Ellen Webking
Assistant Attorney General
Open Records Division

EW/ac

Ref: ID# 541545

Enc. Submitted documents

c: 7 Requestors
(w/o enclosures)