



KEN Paxton
ATTORNEY GENERAL OF TEXAS

August 3, 2016

Mr. Matthew L. Grove
Assistant County Attorney
County of Fort Bend
401 Jackson Street, 3rd Floor
Richmond, Texas 77469

OR2016-17455

Dear Mr. Grove:

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# 621022.

The Fort Bend County Sheriff's Office (the "sheriff's office") received a request for the report from a specified homicide. 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 representative sample of information.¹

Initially, we note some of the requested information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2016-09419 (2016). In that ruling, we determined, with the exception of basic information, which must be released, the sheriff's office may withhold the information at issue under section 552.108(a)(2) of the Government Code. There is no indication the law, facts, or circumstances on which the prior ruling was based have changed. Thus, to the extent the requested information is identical to the information at issue in Open Records Letter No. 2016-09419, the sheriff's office must continue to rely on Open Records Letter

¹We assume that 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.

No. 2016-09419 as a previous determination and withhold or release the information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, to the extent the information at issue in the instant request is not identical to the information responsive in Open Records Letter No. 2016-09419, we will address your arguments against disclosure.

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 information protected by other statutes, such as section 261.201 of the Family Code, which provides, in relevant part:

(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 [chapter 261 of the Family Code] 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 [chapter 261 of the Family Code] or in providing services as a result of an investigation.

Fam. Code § 261.201(a). You argue the information at issue is confidential under section 261.201. However, we find you have failed to demonstrate the information involves a report of alleged or suspected abuse or neglect of a child made under chapter 261 or the information was used or developed in an investigation of alleged or suspected child abuse or neglect. *See id.* §§ 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code), 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, the sheriff’s office may not withhold the information at issue under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

Section 552.108(a)(2) of the Government Code excepts from disclosure information dealing with the detection, investigation, or prosecution of crime only in relation to 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 concluded in a final result other

than a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the information at issue relates to a concluded case that did not result in a conviction or deferred adjudication. Based on this representation, we conclude section 552.108(a)(2) is applicable to the information at issue. Thus, the sheriff's office may withhold the information at issue under section 552.108(a)(2) of the Government Code.

In summary, to the extent the requested information is identical to the information at issue in Open Records Letter No. 2016-09419, the sheriff's office must continue to rely on Open Records Letter No. 2016-09419 as a previous determination and withhold or release the information in accordance with that ruling. The sheriff's office may withhold the information at issue 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,



Ramsey A. Algorca
Assistant Attorney General
Open Records Division

RAA/som

Ref: ID# 621022

Enc. Submitted documents

c: Requestor
(w/o enclosures)