



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 9, 2017

Mr. Ryan Sullivan
Public Information Officer
Harris County Sheriff's Office
1200 Baker Street
Houston, Texas 77002

OR2017-09945

Dear Mr. Sullivan:

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# 657127 (HCSO File No. 17SO500912).

The Harris County Sheriff's Office (the "sheriff's office") received a request for six categories of information pertaining to a named former employee of the sheriff's office. The sheriff's office states it will release some information. The sheriff's office claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the sheriff's office claims and reviewed the submitted information.

Initially, we note some of the submitted information was the subject of a previous request for information in response to which this office issued Open Records Letter No. 2015-13838 (2015). In Open Records Letter No. 2015-13838, we ruled the sheriff's office (1) must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code; (2) must withhold the information we have marked and indicated under section 552.101 of the Government Code in conjunction with common-law privacy; (3) must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code; (4) must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 411.192 of the Government Code; (5)

must withhold the dates of birth we have marked under section 552.102(a) of the Government Code; (6) must withhold the information we have marked and indicated under section 552.117(a)(2) of the Government Code; however, the sheriff's office may not withhold the cellular telephone numbers at issue under section 552.117(a)(2) if a governmental body pays for the cellular telephone service; (7) must withhold the marked information under section 552.1175 of the Government Code, to the extent the individuals whose information is at issue elect to restrict access to this information in accordance with section 552.1175(b); however, to the extent the telephone numbers we have marked consist of personal cellular telephone numbers, the sheriff's office may only withhold such telephone numbers under section 552.1175 if the cellular telephone service was not paid for by a governmental body; (8) must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code; and (9) must release the remaining information. Section 552.007 provides if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure unless its public release is expressly prohibited by law or the information is confidential under law. Gov't Code § 552.007; *see also* Open Records Decision Nos. 518 at 3 (1989), 400 (1983) (governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). Accordingly, pursuant to section 552.007, the sheriff's office may not now withhold any previously released information unless its release is expressly prohibited by law or the information is confidential under law. The sheriff's office raises section 552.101 of the Government Code, which protects information made confidential under law. Thus, we will consider the applicability of section 552.101 to the previously released information. With respect to the information that was withheld in the previous ruling, we find the sheriff's office must continue to rely on Open Records Letter No. 2015-13838 as a previous determination and withhold the identical information, which we have indicated, 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). Additionally, for the information that is not subject to Open Records Letter No. 2015-13838, we will address the sheriff's office's argument against its 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. This section encompasses information protected by other statutes, such as 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.

Fam. Code § 261.201(a). The sheriff's office states the information at issue was used or developed in an investigation of alleged or suspected child abuse. *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 chapter 261 of the Family Code). Upon review, we find the information we have marked is subject to chapter 261 of the Family Code. We have no indication 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, we conclude the information we have marked is confidential pursuant to section 261.201 of the Family Code, and the sheriff's office must withhold it under section 552.101 of the Government Code. *See Open Records Decision No. 440 at 2 (1986)* (predecessor statute). However, we find the sheriff's office has failed to demonstrate any of the remaining information involves a report of alleged or suspected abuse or neglect of a child made under chapter 261 or how the information was used or developed in an investigation of alleged or suspected child abuse or neglect. Therefore, the sheriff's office may not withhold any of the remaining information under section 552.101 on that basis.

In summary, the sheriff's office must continue to rely on Open Records Letter No. 2015-13838 as a previous determination and withhold the identical information, which we have indicated, in accordance with that ruling. The sheriff's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The sheriff's office must release the remaining information.

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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/bw

Ref: ID# 657127

Enc. Submitted documents

c: Requestor
(w/o enclosures)