



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 14, 2017

Ms. Michelle Rangel
Assistant County Attorney
County of Fort Bend
401 Jackson Street, 3rd Floor
Richmond, Texas 77469

OR2017-15752

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# 666351.

The Fort Bend County Sheriff's Office (the "sheriff's office") received a request for all information pertaining to a named individual. You state the sheriff's office has released some 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.¹

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

¹We 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.

Code § 552.101. Section 552.101 encompasses information made confidential by other statutes, such as section 261.201(a) 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 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 the report numbers 04-7462 and 11-11179 were used or developed in investigations of alleged or suspected child abuse. *See id.* § 261.001(1) (defining “abuse” for purposes of Family Code chapter 261); *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 disabilities of minority removed for general purposes). Accordingly, we find this information falls within the scope of section 261.201 of the Family Code. You have not indicated 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 sheriff’s office must withhold report numbers 04-7462 and 11-11179 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.² *See* Open Records Decision No. 440 at 2 (1986) (addressing predecessor statute).

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 . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must 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 report number 04-18988 pertains to an open criminal case. However, the investigation of alleged burglary of a vehicle occurred in 2004. The longest possible statute of limitations for this offense is three years. *See* Crim Proc. Code art. 12.01(7) (limitations on felony not otherwise listed in article 12.01 of Code of Criminal Procedure is three years from date of

²As our ruling is dispositive, we need not address your remaining arguments for this information.

offense). You do not inform us criminal charges were filed within the limitations period or otherwise explain how release of the information would interfere with the detection, investigation, or prosecution of crime. Therefore, the sheriff's office has failed to demonstrate the applicability of section 552.108(a)(1) of the Government Code to report number 04-18988 and may not withhold it on that basis.

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 information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). The sheriff's office states report numbers 04-16634, 04-18443, 04-20225, 04-21650, 04-23119, 04-24196, 04-25199, 05-18308, 09-31050, and 10-6861 pertain to cases that concluded in a result other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to this information.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). 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. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, which the sheriff's office must release, the sheriff's office may withhold report numbers 04-16634, 04-18443, 04-20225, 04-21650, 04-23119, 04-24196, 04-25199, 05-18308, 09-31050, and 10-6861 under section 552.108(a)(2) of the Government Code.

In summary, the sheriff's office must withhold report numbers 04-7462 and 11-11179 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. With the exception of basic information, which the sheriff's office must release, the sheriff's office may withhold report numbers 04-16634, 04-18443, 04-20225, 04-21650, 04-23119, 04-24196, 04-25199, 05-18308, 09-31050, and 10-6861 under section 552.108(a)(2) of the Government Code. The remaining information must be released.³

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.

³In this instance, the requestor has a right of access to the information being released. *See* Gov't Code § 552.023(a); Open Records Decision No. 684 (2009). Thus, if the sheriff's office receives another request for this information from a different requestor, the sheriff's office must seek another ruling from this office.

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,

A handwritten signature in black ink that reads "Britni Ramirez". The signature is written in a cursive style with a large, looping "R" at the end.

Britni Ramirez
Assistant Attorney General
Open Records Division

BR/som

Ref: ID# 666351

Enc. Submitted documents

c: Requestor
(w/o enclosures)