



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

April 2, 2020

Mr. Andrew Wipke  
Assistant County Attorney  
Fort Bend County  
401 Jackson Street, 3<sup>rd</sup> Floor  
Richmond, Texas 77469

OR2020-10164

Dear Mr. Wipke:

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# 820049.

The Fort Bend County Sheriff's Office (the "sheriff's office") received a request for information pertaining to specified incidents. The sheriff's office claims 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. Section 261.201 of the Family Code provides, in relevant part, as follows:

(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). You state the information you indicated was used or developed in investigations of alleged child abuse or neglect under chapter 261 of the Family Code. *See id.* §§ 101.003(a) (defining “child” for purposes of section 261.201), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of section 261.201 of Family Code). You do not indicate the sheriff’s office has adopted any rules that would permit the release of the responsive information. Upon review, we find the information we marked is confidential pursuant to section 261.201 of the Family Code and must be withheld under section 552.101 of the Government Code.<sup>1</sup> *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). Upon review, however, we find you have failed to demonstrate the remaining information at issue is a report of child abuse or neglect, or was used or developed in an investigation under chapter 261 of the Family Code. *See id.* § 261.001(1), (4). Therefore, we conclude section 261.201 of the Family Code is not applicable to the remaining information at issue and it may not be withheld on that basis.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* 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). The sheriff’s office states the remaining information pertains to closed cases that did not result in a conviction or deferred adjudication. Based on the sheriff’s office’s representation and our review, we agree section 552.108(a)(2) is applicable to this information.

However, we note 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. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), and includes a detailed description of the offense. *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of the basic information, the sheriff’s office may withhold the remaining information under 552.108(a)(2) of the Government Code.

In summary, the sheriff’s office must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. With the exception of the basic information, which must be released, the sheriff’s office may withhold the remaining information under section 552.108(a)(2) of the Government Code.

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<sup>1</sup> As our ruling is dispositive, we need not address the remaining argument against disclosure of the information at issue.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Sean McCormick  
Attorney  
Open Records Division

SMC/gw

Ref: ID# 820049

Enc. Submitted documents

c: Requestor  
(w/o enclosures)