



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 30, 2020

Mr. Adam Anderson
Assistant City Attorney
Montgomery County
501 North Thompson, Suite 300
Conroe, Texas 77301

OR2020-24628

Dear Mr. Anderson:

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# 846492 (PIR No. 20PIA228).

The Montgomery County Sheriff's Office (the "sheriff's office") received a request for all information pertaining to a named individual, including a specified incident. 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 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. Section 552.101 encompasses section 261.201(a) of the Family Code, which provides:

(a) Except as provided by Section 261.203, the 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). You claim the submitted information is subject to chapter 261 of the Family Code. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). However, you have failed to demonstrate, and the documents do not reflect, this information was used or developed in an investigation of alleged or suspected child abuse or neglect or consists of a report of alleged or suspected abuse or neglect. Accordingly, we conclude this information is not within the scope of section 261.201. Therefore, the sheriff’s office may not withhold the submitted information 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 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 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). You state the submitted information concerns a concluded investigation that did not result in a conviction or deferred adjudication. Based on this representation, we agree section 552.108(a)(2) is applicable to the submitted 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). *See also* Open Records Decision No. 127 (1976) (summarizing the types of information considered to be basic information). Thus, with the exception of basic information, the sheriff’s office may withhold the submitted information under section 552.108(a)(2) of the Government Code.¹

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

¹ We note the submitted information does not contain criminal history record information (“CHRI”) of the individual named in the request for information. Therefore, we do not address whether the requestor, who represents the Office of Capital and Forensic Writs, has a right of access to CHRI under sections 411.087 and 411.1272 of the Government Code. *See* Gov’t Code § 411.087(a)(2), .1272.

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,

Britni Ramirez
Assistant Attorney General
Open Records Division

BR/rm

Ref: ID# 846492

Enc. Submitted documents

c: Requestor
(w/o enclosures)