



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 11, 2022

Ms. LaNetra S. Lary
Assistant County Attorney
Fort Bend County
401 Jackson Street, 3rd Floor
Richmond, Texas 77469

OR2022-31248

Dear Ms. Lary:

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# 974204 (Ref. No. 0832).

The Fort Bend County Sheriff's Office (the "sheriff's office") received a request for records pertaining to 9-1-1 services calls to a specified address during a particular timeframe. We understand you will withhold certain information pursuant to sections 552.130(c), 552.136(c), and 552.147(b) of the Government Code and pursuant to Open Records Decision No. 684 (2009).¹ 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 public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial

¹ Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redact such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Section 552.136 of the Government Code permits a governmental body to withhold the information described in section 552.136(b) without the necessity of seeking a decision from this office. *See id.* § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e). Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See id.* § 552.147(b). Open Records Decision No. 684 is a previous determination issued by this office authorizing all governmental bodies to withhold certain categories of information without the necessity of requesting an attorney general decision.

decision.” Gov’t Code § 552.101. This section encompasses section 58.008 of the Family Code, which provides, in part:

(b) Except as provided by Subsection (d), law enforcement records concerning a child and information concerning a child that are stored by electronic means or otherwise and from which a record could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult records;

(2) if maintained electronically in the same computer system as adult records, accessible only under controls that are separate and distinct from the controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subsection (c) or Subchapter B, D, or E.

(d) Law enforcement records concerning a child may be inspected or copied by:

...

(4) the child’s parent or guardian.

(e) Before a child or a child’s parent or guardian may inspect or copy a record concerning the child under Subsection (d), the custodian of the record shall redact:

...

(2) any information that is excepted from required disclosure under [the Act], or any other law.

Fam. Code § 58.008(b), (d)(4), (e)(2); *see id.* § 51.03(a) (defining “delinquent conduct” for purposes of title 3 of Family Code). Section 58.008(b) is applicable to records of juvenile conduct that occurred before, on, or after September 1, 2017. *See* Act of May 28, 2017, 85th Leg., R.S., ch. 746 § 22. The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See* Fam. Code § 51.02(2) (defining “child” for purposes of title 3 of Family Code). We find some of the submitted information involves a juvenile offender, so as to fall within the scope of section 58.008(b). However, we note the requestor is the step-parent of the juvenile offender in the information at issue, and as the parent or legal guardian of the child offender at issue, would have access to this information pursuant to section 58.008(d). *See id.* § 58.008(d). Therefore, if the requestor is not a parent or legal guardian of the juvenile offender in the information at issue, the sheriff’s office must withhold the information we have indicated under section 552.101 in conjunction with section 58.008(b). However, if the requestor is a parent or legal guardian

of the juvenile offender at issue, then the sheriff's office may not withhold the information we have indicated under section 58.008(b). *See id.* Section 58.008(e)(2) provides that information subject to any other exception to disclosure under the Act or other law must also be redacted. *See id.* § 58.008(e)(2). Thus, if the requestor is a parent or legal guardian of the juvenile offender in the information at issue, we will consider whether the information at issue is otherwise excepted from disclosure.

Section 552.101 of the Government Code also encompasses information protected by 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 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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Department of Family and Protective Services ("DFPS")] or the Texas Juvenile Justice Department, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

...

(2) any information that is excepted from required disclosure under [the Act], or other law[.]

Fam. Code § 261.201(a), (k), (l)(2). We note most of the submitted information relates to investigations of alleged or suspected child abuse or neglect conducted by the sheriff's office and Child Protective Services ("CPS") and is subject to section 261.201. *See 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 the disabilities of minority removed for general purposes), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). We note the requestor is a parent of the one child victim and a step-parent of the other child victim in the investigations at issue, and the requestor is not alleged to have committed the abuse or neglect. However, the sheriff’s office is not the investigating agency for the investigation of alleged or suspected child abuse or neglect in CPS case number 48624925, CPS case number 48624985, or CPS report number 49063649. Thus, this requestor does not have a right of access to these case numbers or report pursuant to section 261.201(k). *See id.* § 261.201(k). Therefore, the sheriff’s office must withhold CPS case numbers 48624925 and 48624985 and CPS report number 49063649 under section 552.101 in conjunction with section 261.201.²

Additionally, with respect to the remaining information involving the child victim for whom the requestor is a parent, this information may not be withheld from this requestor on the basis of section 261.201(a). *Id.* However, because it is not clear if the requestor is a parent or guardian of the child victim for whom the requestor is a step-parent, we must rule conditionally with respect to the remaining information that involves only the child victim for whom the requestor is a step-parent. If the requestor is not a parent or guardian for this child, the sheriff’s office must withhold the information at issue from this requestor under section 552.101 in conjunction with section 261.201(a). If the requestor is a parent or guardian of this child victim, then the requestor has a right of access to this information under section 261.201(k) and it may not be withheld from him under section 261.201(a). *See id.* However, section 261.201(l)(2) states any information that is excepted from required disclosure under the Act or other law must still be withheld from disclosure. *Id.* § 261.201(l)(2). Thus, we will consider your remaining argument against disclosure, to the extent the requestor has access to such information pursuant to subsection (k).

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 the remaining information pertains to active criminal investigations or prosecutions. Based on this representation, we conclude the release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the information at issue.

² As our ruling is dispositive, we need not address the remaining argument against disclosure of this information.

However, we note section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic information, which must be released, the sheriff's office may withhold the information at issue under section 552.108(a)(1).

In summary, if the requestor is not a parent or legal guardian of the juvenile offender in the information, the sheriff's office must withhold the information we have indicated under section 552.101 of the Government Code in conjunction with section 58.008(b) of the Family Code. The sheriff's office must withhold CPS case numbers 48624925 and 48624985 and CPS report number 49063649 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. If the requestor is not a parent or guardian of the child victim for whom the requestor is a step-parent in the information we have indicated, the sheriff's office must withhold the information at issue from this requestor under section 552.101 of the Government Code in conjunction with section 261.201(a) 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)(1) of the Government Code.

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,

Chase D. Young
Assistant Attorney General
Open Records Division

CDY/eb

Ref: ID# 974204

Enc. Submitted documents

c: Requestor
(w/o enclosures)