



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 16, 2022

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

OR2022-39287

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# 990289 (County ID# 1120).

The Fort Bend County Sheriff's Office (the "sheriff's office") received a request for information at a specified address. You state you released some information. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, 552.136, and 552.147 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 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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Department of Family and Protective Services] 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). The sheriff's office states the submitted information 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). Upon review, we find most of the submitted information was used or developed in a child abuse or neglect investigation under section 261.201. Thus, we find most of the information is subject to chapter 261 of the Family Code. In this instance, the requestor is a parent of the child victim listed in the information at issue. *See id.* § 261.201(k). We note the requestor is alleged to have committed the suspected abuse or neglect in report 18-18663. Further, she may be the alleged perpetrator in reports 18-13787 and 19-8676. To the extent the requestor is the alleged perpetrator in the information at issue, the requestor does not have a right of access to such information, and the sheriff's office must withhold this information under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. To the extent the requestor is not the alleged perpetrator in reports 18-13787 and 19-8676, the sheriff's office may not withhold these reports under section 261.201(a). Further, we note the requestor is not the alleged perpetrator in reports 22-8573 and 21-46556. Thus, the sheriff's office also may not withhold these reports from this requestor under section 261.201(a). 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(1)(2). Thus, we will address your arguments for the information the requestor has a right of access to under section 261.201(k). However, we find the sheriff's office has failed to demonstrate report 21-999 was used or developed in an investigation of alleged or suspected child abuse or neglect under chapter 261. Accordingly, the sheriff's office may not withhold report 21-999 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 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 relates to closed criminal investigations that did not result in convictions or deferred adjudications. Based on this representation and our review, we agree section 552.108(a)(2) is applicable to the remaining 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. 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 types of information considered to be basic information). Thus, with the exception of the basic information, the sheriff's office may withhold the remaining information under section 552.108(a)(2) of the Government Code.¹

In summary, the sheriff's office must withhold report 18-18663 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. To the extent the requestor is the alleged perpetrator in reports 18-13787 and 19-8676, then the sheriff's office must also withhold these reports under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. To the extent the requestor is not the alleged perpetrator in reports 18-13787 and 19-8676, then the sheriff's office may, with the exception of the basic information, withhold these reports as well as the remaining information under section 552.108(a)(2) 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

¹ As our ruling is dispositive, we need not address remaining arguments against disclosure.

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,

Melanie Villars
Assistant Attorney General
Open Records Division

MJV/eb

Ref: ID# 990289

Enc. Submitted documents

c: Requestor
(w/o enclosures)