



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 30, 2009

Mr. David M. Swope  
Assistant Harris County Attorney  
Harris County Attorney's Office  
1019 Congress, 15th Floor  
Houston, Texas 77002

OR2009-04118

Dear Mr. Swope:

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# 338439 (C.A. File Number 09GEN0068).

The Harris County Constable, Precinct 4 (the "constable") received a request for a specified offense report. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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 information made confidential by other statutes, such as section 261.201 of the Family Code, which provides in part:

(a) 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). The submitted incident report was used or developed in an investigation of child abuse. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of Fam. Code ch. 261); *see also id.* § 101.003(a) (defining “child” as person under 18 years of age who is not and has not been married and who has not had the disabilities of minority removed for general purposes). Upon review, we conclude that the submitted incident report falls within the scope of section 261.201 of the Family Code. You have not indicated that the constable has adopted a rule that governs the release of this type of information. Therefore, we assume that no such regulation exists. Given that assumption, this information is confidential under section 261.201 of the Family Code. *See Open Records Decision No. 440 at 2 (1986) (predecessor statute).* Accordingly, the constable must withhold the submitted incident report under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.<sup>1</sup> As our ruling is dispositive, we need not address your remaining arguments.

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 [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Greg Henderson  
Assistant Attorney General  
Open Records Division

GH/jb

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<sup>1</sup>We note the requestor, as a parent of the child who is the subject of reported abuse or neglect, may have a right of access to certain abuse and neglect records maintained by the Texas Department of Family and Protective Services (“DFPS”). Section 261.201(g) of the Family Code provides that DFPS, upon request and subject to its own rules, “shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect information concerning the reported abuse or neglect that would otherwise be confidential under this section if [DFPS] has edited the information to protect the confidentiality of the identity of the person who made the report and any other person whose life or safety may be endangered by the disclosure.” Fam. Code § 261.201(g).

Ref: ID#338439

Enc. Submitted documents

c: Requestor  
(w/o enclosures)