



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

August 13, 2009

Ms. Luz E. Sandoval-Walker  
Assistant City Attorney  
City of El Paso  
2 Civic Center Plaza, 9th Floor  
El Paso, Texas 79901

OR2009-11314

Dear Ms. Sandoval-Walker:

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# 351958.

The El Paso Police Department (the "department") received two requests seeking arrest records related to a named individual and information pertaining to an incident that occurred on October 8, 2007. You claim that the submitted photographs, computer aided dispatch ("CAD") records, and report number 07-281364 are excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

The requestor seeks all department arrest records related to a named individual or to a specific incident. Thus, to the extent the submitted records do not relate to the arrest of the named individual or to the specified incident, they are not responsive to this request. You have not explained, and the records do not indicate, how most of the CAD records submitted

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<sup>1</sup>We assume that the "representative sample" of CAD records submitted to this office is truly representative of the requested CAD records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested CAD records to the extent that those records contain substantially different types of information than that submitted to this office.

for our review pertain to the named individual's arrest or to the incident at issue. Thus, the CAD records we marked are not responsive to either request for information. This ruling does not address the public availability of any information that is not responsive to the request, and the department is not required to release these marked CAD records in response to this request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. App.—San Antonio 1978, writ dismissed).<sup>2</sup>

You assert the remaining submitted information is confidential under section 552.101 of the Government Code, which 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(a) of the Family Code provides as follows:

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 represent to this office that report number 07-281364 pertains to a child abuse investigation by the department. Based on your representations and our review, we conclude records related to this investigation are within the scope of section 261.201 of the Family Code. *See id.* § 261.001(1) (defining "abuse" for purposes of chapter 261 Family Code). You do not inform us, and we are not aware, that the department has adopted a rule that governs the release of this type of information; therefore we assume no such rule exists. Given that assumption, we conclude report number 07-281364, and the related photographs and CAD records, are confidential pursuant to section 261.201 of the Family Code, and the department must withhold these records in their entirety under section 552.101 of the Government Code. *See Open Records Decision No. 440 at 2* (1986) (predecessor statute). As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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<sup>2</sup>As our ruling is dispositive for this information, we need not address your arguments against its disclosure.

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,

A handwritten signature in black ink, appearing to read 'Bob Davis', with a long horizontal flourish extending to the right.

Bob Davis  
Assistant Attorney General  
Open Records Division

RSD/cc

Ref: ID# 351958

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)