



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 14, 2009

Ms. Michelle T. Rangel  
Assistant County Attorney  
Fort Bend County  
William B. Travis Building  
301 Jackson Street, Suite 728  
Richmond, Texas 77469-3108

OR2009-14531

Dear Ms. Rangel:

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# 358186.

The Fort Bend County Sheriff's Office (the "sheriff"), received a request for "any records showing domestic violence, cases, call history" at a specified address for the last five years. You state the sheriff will release certain information. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.<sup>1</sup>

Initially, we note the requestor has excluded driver's license numbers, state identification numbers, and social security numbers from this request. Thus, any such information contained within the submitted documents is not responsive to the present request. The

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested 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 records to the extent that those records contain substantially different types of information than that submitted to this office.

sheriff need not release non-responsive information in response to this request and this ruling will not address that 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 of the Family Code, which provides in part as follows:

(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.

Act of April 10, 1995, 74th Leg., R.S., ch. 20, § 1, sec. 261.201, 1995 Tex. Gen. Laws 113, 262, *amended by* Act of June 1, 2009, 81st Leg., R.S., ch. 779, §1, 2009 Tex. Sess. Law Serv. 1965, 1965-66 (Vernon) (to be codified as an amendment to Fam. Code § 261.201).

You indicate that incident report number 09-13169 was used or developed in an investigation into alleged child abuse under chapter 261. *See* Fam. Code § 261.001 (defining "abuse" and "neglect"); *see also id.* § 101.003(a) (defining "child" for purposes of section 261.201 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"). Based on your representation and our review, we find that this information is within the scope of section 261.201 of the Family Code. You do not inform us that the sheriff has adopted a rule that governs the release of this type of information. Therefore, we assume that no such regulation exists. Given that assumption, incident report number 09-13169 is confidential in its entirety pursuant to section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). Accordingly, the sheriff must withhold report number 09-13169 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

Section 552.101 also encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person and (2) is not of legitimate concern to

the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683.

Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy. In this instance, although you seek to withhold the submitted call slip in its entirety, you have not demonstrated, nor does it otherwise appear, that this is a situation where the information must be withheld in its entirety on the basis of common-law privacy. However, we agree that portions of the submitted call slip are highly embarrassing and not of legitimate public interest. Accordingly, the sheriff must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. As you raise no other exception against disclosure, the remaining information in the call slip must be released.

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. *See* Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* You inform us, and provide documentation showing, that the remaining incident reports pertain to closed cases that did not result in conviction or deferred adjudication. Based on your representations and our review, we conclude that section 552.108(a)(2) is applicable to the information you have marked.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *See* Gov't Code § 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). Thus, with the exception of basic information, which you state will be released, the sheriff may withhold incident report numbers 04-25127, 07-2444, and 07-23470 under section 552.108(a)(2) of the Government Code.<sup>2</sup>

In summary, the sheriff must withhold incident report number 09-13169 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

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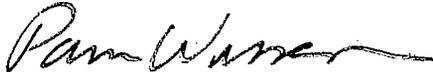
<sup>2</sup>As our ruling is dispositive, we do not address your remaining argument against disclosure of this information.

The sheriff must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. With the exception of basic information, the sheriff may withhold incident report numbers 04-25127, 07-2444, and 07-23470 under section 552.108(a)(2) of the Government Code. The remaining information must be released.

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, toll free, at (888) 672-6787.

Sincerely,



Pamela Wissemann  
Assistant Attorney General  
Open Records Division

PFW/jb

Ref: ID# 358186

Enc. Submitted documents

c: Requestor  
(w/o enclosures)