



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 28, 2009

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

OR2009-10409

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# 350284.

The Fort Bend County Sheriff's Office (the "sheriff") received a request for all information concerning a specified case number. 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.

Initially, we note the requestor agreed to exclude from her request social security numbers, driver's license numbers, and state identification numbers of any third parties. Thus, any social security numbers, driver's license numbers, or state identification numbers of third parties within the submitted information are not responsive to the present request for information and the sheriff need not release this information to the requestor in response to her request.

Next, 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 made confidential by other statutes. You contend that the submitted information is made confidential under section 261.201 of the Family Code, which provides in pertinent 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.

(h) This section does not apply to an investigation of child abuse or neglect in a home or facility regulated under Chapter 42, Human Resources Code.

Fam. Code § 261.201(a), (h). You state that the submitted information was used or developed in an investigation of alleged child abuse or neglect. However, section 261.201 does not apply to an investigation of child abuse or neglect in a home or facility regulated under chapter 42 of the Human Resources Code. *See id.* § 261.201(h). We note that the incident at issue allegedly occurred while the child at issue was under the care of a facility regulated by the Texas Department of Family and Protective Services under chapter 42 of the Human Resources Code. Thus, we find that section 261.201 is not applicable to the investigation at issue, and we determine that the sheriff may not withhold the submitted information under section 552.101 on that basis.

Section 552.101 also encompasses the doctrine of common-law privacy, which protects information if (1) the information contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) the information 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. This office has also found that common-law privacy generally protects the identifying information of juvenile victims of abuse or neglect. *See* Open Records Decision No. 394 (1983); *cf.* Fam. Code § 261.201. Upon review, we find the submitted information contains highly intimate or embarrassing information of no legitimate concern to the public. Therefore, the sheriff must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, (1) the sheriff need not release nonresponsive information in response to the present request; and (2) the sheriff must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining information must be released to the requestor.

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, 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,



Christopher D. Sterner
Assistant Attorney General
Open Records Division

CDSA/eeg

Ref: ID# 350284

Enc. Submitted documents

c: Requestor
(w/o enclosures)